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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE
AMENDMENT (NATIONAL REGULATOR) BILL 2011**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Resources and Energy,
the Honourable Martin Ferguson AM, MP)

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE AMENDMENT (NATIONAL REGULATOR) BILL 2011

GENERAL OUTLINE

The Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011 ('National Regulator Bill') will amend the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*. It will establish two new regulatory bodies to administer and regulate petroleum and greenhouse gas storage operations in Commonwealth waters in the Australian offshore area. The new bodies will replace the Designated Authorities, who are State and Northern Territories Ministers who, through their departments, have performed functions and exercised powers conferred directly on them by the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and its predecessor Act the *Petroleum (Submerged Lands) Act 1967*.

There will be no change to the Joint Authority arrangement with respect to petroleum titles that has been in place since 1980. The Joint Authority for each State and the Northern Territory comprises the 'responsible Commonwealth Minister' (currently the Minister for Resources and Energy) and the relevant State or Northern Territory Minister. The Joint Authorities make the major decisions under the Act concerning the granting of petroleum titles, the imposition of title conditions and the cancelling of titles, as well as core decisions about resource management and resource security.

In the case of greenhouse gas titles, the corresponding decision-maker will continue to be the 'responsible Commonwealth Minister'.

The two new regulatory bodies are the National Offshore Petroleum Safety and Environmental Management Authority ('NOPSEMA') and the National Offshore Petroleum Titles Administrator ('Titles Administrator').

NOPSEMA will be an expanded version of the National Offshore Petroleum Safety Authority ('NOPSA'). NOPSA, which is a body corporate, will be continued in existence under the new name and will have an extended range of functions in relation to petroleum and greenhouse gas operations. Its principal functions will be: occupational health and safety; structural integrity of facilities, wells and well-related equipment; environmental management; and regulation of day-to-day petroleum operations. NOPSEMA will appoint and deploy OHS inspectors and petroleum (and greenhouse gas) project inspectors. NOPSEMA, like NOPSA, will be fully funded by cost-recovery levies and fees, managed by means of a Special Account under the *Financial Management and Accountability Act 1997*.

The Titles Administrator will be the holder of an APS office within the Department of Resources, Energy and Tourism and will be assisted principally by APS employees within the Department. The Titles Administrator's principal functions will be to provide information, assessments, analysis, reports, advice and recommendations to members of the Joint Authorities and the 'responsible Commonwealth Minister' in relation to the performance of those Ministers' functions and the exercise of their powers, the collection, management and release of data, titles administration, approval and registration of transfers and dealings, and the keeping of the registers of petroleum and greenhouse gas titles.

NOPSEMA and the Titles Administrator will each have an express function of cooperating with the other in matters relating to the administration and enforcement of the Act and regulations. While it is an important aspect of the new regime that the two bodies will act entirely independently of each other in their decision-making and regulatory practices, a level of administrative coordination between the agencies will assist in minimising any potential impact on the industry of having offshore operations regulated by two different entities.

BACKGROUND

Following a High Court decision in 1975 that confirmed that the Commonwealth had jurisdiction and the right to explore for and exploit seabed resources of the territorial sea and continental shelf (i.e. in all offshore waters), in June 1979 the Commonwealth and the States agreed to a division of offshore rights, powers and responsibilities known collectively as the Offshore Constitutional Settlement (OCS). Pursuant to the OCS, the Commonwealth Parliament enacted the *Coastal Waters (State Title) Act 1980* and the *Coastal Waters (State Powers) Act 1980*, and equivalent Acts for the Northern Territory, by which the Commonwealth conferred on the States and the Northern Territory the same title to the sea and seabed of the (3 nautical mile) territorial sea and the same legislative jurisdiction as the States and the Territory would have had if that part of the territorial sea had been within the limits of the States or the Territory.

Following the OCS, an amendment confined the application of the then *Petroleum (Submerged Lands) Act 1967* (now the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) to waters outside the three nautical mile limit. The States and Northern Territory enacted mirror legislation applying in waters landward of that boundary. Again as provided by the OCS, under the Commonwealth Act, the States and Northern Territory shared in the administration of the Commonwealth Act under the Joint Authority and Designated Authority arrangements described in the Outline.

Post-OCS, the most significant legislative development has been the establishment of the National Offshore Petroleum Safety Authority. This followed the 2001 Commonwealth Government report on offshore safety: *Future Arrangements for the Regulation of Offshore Petroleum Safety*. The primary conclusion of this Report was "that the Australian legal and administrative framework, and the day to day application of this framework, for regulation of health, safety and environment in the offshore petroleum industry is complicated and insufficient to ensure appropriate, effective and cost efficient regulation of the offshore petroleum industry. Much would require improvement for the regime to deliver world-class safety practice."

Since 1 January 2005, NOPSA has been the regulator of occupational health and safety in Commonwealth waters under the Commonwealth Act and in State and Northern Territory coastal waters under the State and Northern Territory Petroleum (Submerged Lands) Acts.

The current reform process

The Productivity Commission (PC) Review of Regulatory Burden on the Upstream Petroleum (Oil & Gas) Sector (April 2009) identified significant unnecessary regulatory burden on the sector and made 30 recommendations including the establishment of a national offshore petroleum regulator in Commonwealth waters and the implementation of regulatory best practice.

The Varanus Island gas pipeline explosion in 2008 and the uncontrolled release of oil and gas from the Montara Wellhead Platform in 2009 also highlighted inadequacies in the offshore petroleum regulatory regime. Of particular concern was a shortage of technical staff in the Designated Authorities' Departments with the necessary qualifications, skills and experience. There was also a perceived lack of independence of staff with responsibility for regulatory oversight of well integrity and environmental management, located as they were in the State and Northern Territory Departments that were responsible for resource development.

The June 2010 Report of the Montara Commission of Inquiry recommended that the PC's proposal to establish a national offshore petroleum regulator should be pursued at a minimum. The Montara Commission recommended that a single, independent regulatory body should be created, looking after safety as a primary objective, along with well integrity and environmental approvals. Industry policy and resource development and promotion activities should continue to reside in government departments and not with the independent regulatory agency.

The amendments in the National Regulator Bill reflect extensive consultation with jurisdictions, industry and NOPSA and will implement the institutional reforms arising from the PC Review and the Montara Commission of Inquiry. Should these reforms not be progressed, Australia will miss an opportunity to strengthen the regulation of offshore petroleum activities and reduce unnecessary regulatory burden and will forgo significant potential national income benefits. Reform of the sector is a priority of the Council of Australian Governments (COAG)'s National Partnership Agreement to Deliver a Seamless National Economy.

Jurisdictional areas in which NOPSEMA and the Titles Administrator will or may operate:

- (a) *Commonwealth waters* – these are the waters covered by the Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, i.e. waters of the territorial sea between 3 and 12 nautical miles as well as the continental shelf, and the offshore areas of external Territories (such as Ashmore and Cartier Islands). NOPSEMA and the Titles Administrator will function in all Commonwealth waters.
- (b) *Designated coastal waters* of each State and the Northern Territory – these are the waters covered by the State and Northern Territory Petroleum (Submerged Lands) Acts, i.e. the first 3 nautical miles of the territorial sea adjacent to each State and the Northern Territory, plus (in the case of Western Australia) some historic petroleum title areas landward of the (3-mile) territorial sea baseline but external to the State. In designated coastal waters, functions and powers may be conferred

on NOPSEMA by the relevant State's or the Northern Territory's Petroleum (Submerged Lands) Act and regulations. Functions and powers may also be conferred on the Titles Administrator.

- (c) *Eligible coastal waters (WA only)* – these are waters landward of the (3-mile) territorial sea baseline that are external to the State. Only Western Australia has any offshore resources activity in waters in this category. WA is able to confer functions and powers on NOPSEMA on the same basis as in designated coastal waters.
- (d) *Any State/NT waters or onshore* – A State or the Northern Territory may contract with NOPSEMA for the provision of regulatory services. In relation to the provision of services onshore, constitutional restrictions apply.

FINANCIAL IMPACT STATEMENT

Nil financial impact on the Australian Government Budget. This Bill will enable the Commonwealth to retain amounts received under the *Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006* (Registration Fees Act), which are currently required to be paid to the States and the Northern Territory, in order to fund the establishment of NOPTA and expansion of NOPSA to NOPSEMA.

After these costs have been funded, this Bill will repeal the Registration Fees Act. The Bill also repeals the *Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006*. NOPTA and NOPSEMA will operate on a cost-recovery basis with levies raised by the offshore petroleum industry, imposed by the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*.

REGULATORY IMPACT STATEMENT

This Bill does not impose any new regulatory burden on the offshore petroleum industry. As discussed in the General Outline, the amendments in this Bill reflect extensive consultation with jurisdictions, industry and NOPSA, and implement measures to reduce unnecessary regulatory burden on the offshore petroleum industry.

NOTES ON INDIVIDUAL CLAUSES

Clause 1 – Short title

Clause 1 is a formal provision specifying the short title of the Act.

Clause 2 – Commencement

Clause 2 of the Bill specifies the time of commencement for the provisions of the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011* (National Regulator Amendment Act).

Sections 1 to 3 of the National Regulator Amendment Act will commence on the day the Act receives Royal Assent.

Schedule 1 will commence on the later of 1 July 2011 and the first day of the month following the month in which the National Regulator Amendment Act receives Royal Assent. This will ensure that payments to the States and the Northern Territory (NT) of amounts received by the Commonwealth under the *Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006* (Registration Fees Act) will not cease until the amendments to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) to establish the National Offshore Petroleum Titles Administrator (NOPTA) and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) have been passed by Parliament and approved by the Governor-General. Following the commencement of this Schedule, the Commonwealth will retain these amounts to fund the establishment of NOPTA and expansion of NOPS to NOPSEMA. In the interim period, the States and NT will continue to receive these amounts to fund administration of the OPGGS Act.

Part 1 of Schedule 2 will commence on a day to be fixed by Proclamation. This will ensure that the provisions relating to the functions, powers and obligations of NOPTA and NOPSEMA, and removing the functions, powers and obligations on the Designated Authority (DA), will not commence until NOPTA and NOPSEMA have been established.

However, if any of the provisions of this Part do not commence within 12 months of the day on which the National Regulator Amendment Act received Royal Assent, the provisions will commence on the day after the end of the 12 month period. A 12 month period has been set to ensure adequate time to establish NOPTA and NOPSEMA before the commencement of this Part. There is a higher risk that setting a shorter period before automatic commencement, such as 6 months, will not enable sufficient time for necessary work to establish NOPTA and NOPSEMA prior to the commencement of this Part.

Part 2 of Schedule 2 will commence on the same day as Part 1 of Schedule 2. However, if Schedule 4 (repeal of the Registration Fees Act) commences on or before that time, the provisions in this Part will not commence at all. This ensures that NOPTA is given the power to assess and determine registration fee amounts from the time it has been established until the repeal of the Registration Fees Act.

Part 3 of Schedule 2 will commence on the day the National Regulator Amendment Act receives Royal Assent. This will ensure the continuity of the appointments of the CEO of the National Offshore Petroleum Safety Authority (NOPSA) and members of the NOPSA Board (subject to the power of the responsible Commonwealth Minister to terminate an appointment prior to the commencement of Part 1 of Schedule 2).

Part 4 of Schedule 2 will commence at the same time as the commencement of Part 1 of Schedule 2 to the Bill. This will ensure that transitional provisions relating to acts of the DA and the continuity of Registers of titles commence at the same time as the functions and powers of the DA are transferred to NOPTA, NOPSEMA or the Joint Authority (JA) (as applicable), as provided for in Part 1 of Schedule 2.

Schedule 3 will commence at the same time as the commencement of Part 1 of Schedule 2 to the Bill. This will ensure that annual fees imposed by the *Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006* are no longer imposed once NOPTA and NOPSEMA, which will operate on a cost-recovery basis with levies raised by the offshore petroleum industry under the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*, commence operations.

Schedule 4, which repeals the Registration Fees Act, will commence on the later of the following:

- 24 months after the commencement of Schedule 1 (which enables the Commonwealth to retain registration fees), and
- the 15th day of the month following the month in which the total amounts retained by the Commonwealth under the Registration Fees Act reach the lesser of \$30.6 million (the estimated cost for the establishment of NOPTA and expansion to NOPSEMA), or the actual total costs to establish NOPTA and expand to NOPSEMA. In the latter case, when the amount of the total costs are known, the amount will be announced by Ministerial declaration.

This commencement timing for Schedule 4 will ensure that the Registration Fees Act is repealed, and no further registration fees imposed on offshore petroleum and greenhouse gas titleholders, after the costs of establishing NOPTA and expanding NOPSA to NOPSEMA have been funded by the continued collection of the registration fees.

Schedule 5 has retrospective operation with a commencement date of 9 October 2009. The reason for retrospectivity is that the provision in this Schedule effects a technical amendment by correcting a drafting error in the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Act 2009* (2009 Legislation Amendment Act). The commencement date of 9 October 2009 reflects the date that the provision would have commenced had it been included correctly in the 2009 Legislation Amendment Act.

Clause 3 – Schedule(s)

This clause gives effect to the provisions in the Schedules to this Bill.

Schedule 1 – Amendments relating to payments to the States and the Northern Territory

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Item 1 – Subparagraph 76(1)(a)(ii)

This item omits the word “or” at the end of subparagraph 76(1)(a)(ii).

Item 2 – Subparagraph 76(1)(a)(iii)

This item repeals subparagraph 76(1)(a)(iii), removing the requirement for the Commonwealth to pay to the States and the NT amounts equal to the amounts received by the Commonwealth under the Registration Fees Act in respect of the offshore area of that State or NT. The Commonwealth will retain these amounts to fund the establishment of NOPTA and expansion of NOPSA to NOPSEMA. After these costs have been funded, the Registration Fees Act will be repealed. See Item 1 of Part 1 of Schedule 4.

Item 3 – Application of amendments

This item applies the amendments made by Schedule 1 to amounts received by the Commonwealth under the Registration Fees Act after the commencement of this item. Any amounts received prior to the commencement of this item must continue to be paid to the States/NT.

Schedule 2 – General amendments

Part 1 – General Amendments

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Item 1 – Section 4

This item omits the content of the existing simplified outline of the OPGGS Act that describes the allocation of responsibilities for the administration of the Act (including references to the DA), and replaces it with new content for the simplified outline to reflect the new allocation of responsibilities for administration of the Act as a result of the amendments made by this Bill.

Item 2 – Section 7 (subparagraphs (a)(ii) and (iii) of the definition of *approved*)

This item repeals the subparagraphs.

Item 3 – Section 7 (paragraph (b) of the definition of *approved*)

This item substitutes the term “Designated Authority” with “Titles Administrator”.

Item 4 – Section 7 (definition of *approved*)

This item omits the words “to the expression *approved site plan*”, and replaces them with the words:

“to:

- (c) the expression *approved site plan*; or
- (d) section 286A; or
- (e) section 650; or
- (f) section 695B(3); or
- (g) section 695F; or
- (h) section 774.”

Item 5 – Section 7 (definition of *constitutional corporation*)

This item defines the term “constitutional corporation” to mean a corporation to which paragraph 51(xx) of the Constitution applies.

Item 6 – Section 7 (definition of *Designated Authority*)

This item provides a new definition for the term “Designated Authority”, to reflect that the term is now used only in provisions dealing with historical matters relating to DAs.

Item 7 – Section 7 (definition of *non-OHS structural integrity*)

This item omits the definition of “non-OHS structural integrity” from the OPGGS Act. As all aspects of structural integrity will be regulated by NOPSEMA, there is not a need to differentiate between non-OHS and OHS-related structural integrity.

Item 8 – Section 7 (definition of *non-OHS structural integrity law*)

This item omits the definition of “non-OHS structural integrity law”. See item 5 of Part 1 of Schedule 2.

Item 9 – Section 7

This item defines the term “NOPSEMA” as the National Offshore Petroleum Safety and Environmental Management Authority.

Item 10 – Section 7 (definition of *referable title*)

This item repeals the definition of “referable title”. The concept related to petroleum titles that overlap a greenhouse gas title area and was part of the regime for registration of transfers and dealings in Chapter 4. There was a process for the Designated Authority to refer to the responsible Commonwealth Minister any application for registration of a transfer of, or a dealing in, a referable title. The process is made unnecessary by the abolition of the Designated Authorities, and the transfer to the Titles Administrator of the function of registering transfers and dealings in relation to both petroleum and greenhouse gas titles.

Item 11 – Section 7

This item defines the term “Regulatory Levies Act” as the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*.

Item 12 – Section 7 (paragraph (a) of the definition of *responsible Northern Territory Minister*)

This item revises the definition of the term “responsible Northern Territory Minister” to reflect the drafting of the provisions of the Northern Territory Petroleum (Submerged Lands) Act that authorise the Northern Territory Minister to act as a member of the Joint Authority for the NT offshore area.

Item 13 – Section 7 (paragraph (a) of the definition of *responsible State Minister*)

This item revises the definition of the term “responsible State Minister” to reflect the drafting of the provisions of the Petroleum (Submerged Lands) Act of each of the States that authorise the State Minister to act as a member of the Joint Authority for the State offshore area.

Item 14 – Section 7 (definition of *Safety Authority*)

This item repeals the definition of “Safety Authority”, to reflect the transition from the Safety Authority to NOPSEMA.

Item 15 – Section 7

This item defines the term “Secretary” as the Secretary of the Department.

Item 16 – Section 7 (paragraph (e) of the definition of *structural integrity*)

Item 16 repeals paragraph (e) of the definition of *structural integrity* and substitutes new paragraphs (e) to (n). One of the main effects of the change is to add ‘systems integrity’ to the categories of integrity to which the definition extends, with ‘systems integrity’ including integrity of electrical, electronic, hydraulic, chemical, dynamic positioning and other systems. The other main effect is that the definition extends only to integrity in connection with:

- (i) the containment of petroleum, greenhouse gas or another substance; or
- (ii) occupational health and safety.

Structural integrity that is *not* related to containment of substances or OHS is excluded from the definition, as it is not within the range of risks that are regulated by NOPSEMA.

Item 17 – Section 7 (definition of *structural integrity law*)

This item revises the definition of the term “structural integrity law” to include the provisions of the OPGGS Act that relate to structural integrity of facilities, wells and

well-related equipment, in addition to provisions of the regulations that relate to those matters.

Item 18 – Section 7 (paragraph (d) of the definition of *title*)

This item omits paragraph (d) of the definition of “title”, which refers to section 76. Section 76 is repealed by this Bill.

Item 19 – Section 7 (after paragraph (h) of the definition of *title*)

This item inserts a new paragraph (ha), to refer to the definition of “title” in the new subsection 574A(1). See item 333 of Part 1 of Schedule 2.

Item 20 – Section 7 (at the end of the definition of *title area*)

This item inserts a new alternate paragraph (d), in relation to use of the term “title area” in the new section 586A, to refer to the definition of “applicable date and title area” in the new subsection 586A(7). See item 354 of Part 1 of Schedule 2.

Item 21 – Section 7

This item defines the term “Titles Administrator” as the National Offshore Petroleum Titles Administrator.

Item 22 – Subsection 16(1)

This item omits the term “Designated Authority” and replaces it with term “Titles Administrator”, to provide NOPTA with the powers previously exercisable by the DA under this subsection.

Item 23 – Section 30

This item omits the reference to a direction given by the responsible Commonwealth Minister in his or her capacity as the DA for an offshore area to reflect the abolishment of the DAs and therefore the role of the responsible Commonwealth Minister as a member of the JA only.

Items 24 and 25 – Subsection 44(1) (heading to table column headed “The Designated Authority may issue an instrument varying...”); Subsection 45(1)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”, to provide NOPTA with the powers previously exercisable by the DA under these subsections.

Item 26 – Part 1.3 (heading)

This item repeals the heading of Part 1.3 and substitutes a new heading for this Part titled “Joint Authorities”.

Item 27 – Subsection 61(1)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”, to make the Titles Administrator responsible for keeping records of decisions of Joint Authorities under this section.

Item 28 – Subsection 61(1)

This item omits “the Joint Authority for a State or the Northern Territory” and replaces it with the words “a Joint Authority”. The effect of this change is to bring decisions of the Joint Authority for the offshore area of an external Territory within the scope of the section.

Item 29 – Subsection 61(2)

This item inserts the words “in relation to the Joint Authority for a State or the Northern Territory”. This leaves the *other* Joint Authorities to be dealt with under the new subsection 61(2A).

Item 30 – After subsection 61(2)

This item inserts a new subsection 61(2A) that makes the same provision in relation to the Joint Authorities for

- (a) the Eastern Greater Sunrise Offshore area; and
- (b) an external Territory;

as subsection 61(2) does in relation to the Joint Authorities for the States and Northern Territory.

The combined effect of items 28-30 is that, in relation to all Joint Authorities, a record kept by the Titles Administrator is prima facie evidence that the decision was duly made as recorded, if the record is signed by a person who was, or was a member of, the Joint Authority at the time when the decision was made. It is important that the record be signed by a person who was, or was a member of, the Joint Authority, in order to underpin the provision in section 62 for the Titles Administrator to sign documents on behalf of the Joint Authority.

Items 31 and 32 – Subsection 62(1)

Item 31 omits the term “Designated Authority” and replaces it with the term “Titles Administrator”. Item 32 omits “the Joint Authority for a State or the Northern Territory” and replaces it with “a Joint Authority”. Taken together, these items amend subsection 62(1) so that it provides that if a document is signed by the Titles Administrator on behalf of a Joint Authority, the document is taken to have been duly executed by the Joint Authority. While the Titles Administrator will not personally have been the Joint Authority, or a member of the Joint Authority, that made the actual decision, the Titles Administrator’s record of the decision will have been signed by such a person, so the integrity of the process is preserved.

Item 33 – Section 63

This item omits “the Joint Authority for a State or the Northern Territory” and replaces it with the words “a Joint Authority”. This brings all of the Joint Authorities within the scope of section 63.

Item 34 – Section 63

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”. As amended by items 33 and 34, section 63 now provides that all communications to or by any Joint Authority are to be made through the Titles Administrator.

Item 35 – Subsection 65(1)

This item omits “the Joint Authority for a State or the Northern Territory” and replaces it with the words “a Joint Authority”.

Item 36 – Section 65

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”. Taken together, items 35 and 36 amend subsection 65(1) so that it enables the Titles Administrator to execute or issue an instrument (including a title), give a notice or communicate a matter on behalf of any Joint Authority, in accordance with a decision of the Joint Authority. The requirement in subsection 61(2) that the Titles Administrator’s record of the decision of a Joint Authority be signed personally by the Joint Authority or a member of the Joint Authority is important to underpin this arrangement.

Item 37 – Division 2 of Part 1.3

This item reflects the abolition of the DAs in that it repeals the whole of Division 2 which establishes the DAs and confers their functions and powers.

Item 38 – Sections 76 and 77

This item repeals sections 76 and 77 which require that the Commonwealth pay various amounts, including those collected under the OPGGS Act, the Annual Fees Act and the Registration Fees Act, to the States and Northern Territory.

Items 39 and 40 – Paragraph 103(1)(b); Subsection 104(3) (note 3)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 41 – Subsection 110(6) (note 3)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 42 – Subsection 115(4) (note 3)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 43 – Section 119

This item omits the term “Designated Authority”, wherever occurring in this section, and replaces it with the term “Titles Administrator”.

Items 44 to 51 – Subsection 136(5); Subsection 136(6); Subsection 136(7); Paragraph 140(1)(b); Subsection 141(1); Subsection 141(2) (note 3); Paragraph 141(3)(b); Subsection 141(4)

These items omit the term “Designated Authority (or “The Designated Authority” in subsections 136(6) and 141(4)), wherever occurring, and replace it with the term “Titles Administrator” (or “The Titles Administrator” in subsections 136(6) and 141(4)).

Item 52 – After section 143

Item 52 inserts new section 143A which imposes a time limit for the making by the Joint Authority of a decision in relation to the grant, or refusal to grant, a retention lease. The decision must be made within the period that begins when the application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a ‘period of grace’ at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or of the applicant's record of compliance and other relevant material, which requires access to the former Designated Authorities' records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities' departments.

There is a ‘stop-the-clock’ mechanism that commences whenever further information is sought from the applicant and ceases when the information is provided.

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities' departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator's processes become established.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Items 53 and 54 – Subsection 147(1); Subsection 147(2) (note 3)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 55 – After section 149

Item 55 inserts new section 149A which imposes a time limit for the making by the Joint Authority of a decision in relation to the grant of a petroleum retention lease. The decision must be made within the period that begins when the application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a ‘period of grace’ at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or of the applicant's record of compliance and other relevant material, which requires access to the former Designated Authorities' records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities' departments.

There is a ‘stop-the-clock’ mechanism that commences whenever further information is sought from the applicant and ceases when the information is provided.

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as

titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities' departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator's processes become established.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Items 56 and 57 – Subsections 153(1) and (3); Subsection 153(4) (note 3)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 58 – After section 155

Item 58 inserts new section 155A which imposes a time limit for the making by the Joint Authority of a decision in relation to the grant, or refusal to grant, a petroleum retention lease. The decision must be made within the period that begins when the application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a ‘period of grace’ at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or of the applicant's record of compliance and other relevant material, which requires access to the former Designated Authorities' records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities' departments.

There is a ‘stop-the-clock’ mechanism that commences whenever further information is sought from the applicant and ceases when the information is provided.

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities' departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator's processes become established.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Item 59 – Paragraph 157(1)(b)

This item omits the words “the Designated Authority” and replaces it with the words “the Titles Administrator”.

Item 60 – Subsection 157(2) (note)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”, to reflect that section 63 has been amended to require all communications to the JA to be made through NOPTA. See items 33 and 34 of Part 1 of Schedule 2.

Item 61 – Subsection 166(2) (at the end of the note)

This item adds the words “or 587A” to reflect the addition of a new section 587A dealing with remedial directions following termination.

Items 62 to 67 – Subsection 166(6) (note); Subsections 168(2) and (3); Subsection 168(7) (note 3); Subsections 169(1) and (2); Subsection 170(2); Subsection 170(4) (note 3)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 68 – After section 173

Item 68 inserts new section 173A which imposes a time limit for the making by the Joint Authority of a decision in relation to the grant, or refusal to grant, a production licence. The decision must be made within the period that begins when the

application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

Subsection 173A(3) makes special provision for cases where section 174 applies in relation to the application for a petroleum production licence. Section 174 applies to the application where there is a pending application for a greenhouse gas assessment permit and certain other circumstances apply. The section requires the Joint Authority to delay making a decision on the petroleum production licence application until the application for the greenhouse gas permit is resolved. Subsection 173A(3) provides that if a deferral occurs under section 174, the period applicable under section 173A is extended by one day for each day of the deferral.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a 'period of grace' at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or of the applicant's record of compliance and other relevant material, which requires access to the former Designated Authorities' records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities' departments.

There is a 'stop-the-clock' mechanism that commences whenever further information is sought from the applicant and ceases when the information is provided.

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities' departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator's processes become established.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Item 69 – Subsection 178(3) (note 3)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 70 – At the end of section 183

Item 70 inserts new subsections at the end of section 183 which impose a time limit for the making by the Joint Authority of a decision in relation to the grant of petroleum production licences over individual blocks. The decision must be made within the period that begins when the application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a ‘period of grace’ at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or other relevant material, which requires access to the former Designated Authorities’ records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities’ departments.

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities’ departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator’s processes become established.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Item 71 – Subsections 184(2) and (4)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 72 – After section 186

Item 72 inserts new section 186A which imposes a time limit for the making by the Joint Authority of a decision in relation to the grant, or refusal to grant, a renewal of a fixed-term petroleum production licence. The decision must be made within the period that begins when the application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a ‘period of grace’ at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or of the applicant's record of compliance and other relevant material, which requires access to the former Designated Authorities' records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities' departments.

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities' departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator's processes become established.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Items 73 and 74 – Subparagraph 191(4)(b)(i); Subsection 191(8)

These items omit the term “Designated Authority”, wherever occurring, and replace it with the term “Titles Administrator”.

Item 75 – Subsection 191(11)

This item makes technical revisions to the subsection to require NOPTA to consult with the appropriate State or Territory about exploitation of a petroleum pool, in the circumstances that a petroleum pool extends, or is reasonably believed by NOPTA to extend, from the offshore area of a State or Territory into lands to which the laws of that State or Territory, or another State or Territory, relating to exploiting petroleum resources apply.

Item 76 – Subsection 197(2) (at the end of the note)

This item adds the words “or 587A” to reflect the addition of a new section 587A dealing with remedial directions following termination.

Items 77 to 79 – Subsection 197(6) (note); Subsection 198(1); Subsection 198(2) (note 3)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 80 – After section 200

Item 80 inserts new section 200A which imposes a time limit for the making by the Joint Authority of a decision in relation to the grant of, or refusal to grant, an infrastructure licence. The decision must be made within the period that begins when the application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a ‘period of grace’ at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or of the applicant's record of compliance and other relevant material, which requires access to the former Designated Authorities' records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities' departments.

There is a ‘stop-the-clock’ mechanism that commences whenever further information is sought from the applicant and ceases when the information is provided.

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities' departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator's processes become established.

In the case of the decision whether to grant or refuse an infrastructure licence under section 199 or section 200, it will be necessary to prescribe a period that allows time for the consultations required by section 202 to take place.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Items 81 to 84 – Subsection 202(3) (note); Subsection 203(3) (note); Subsection 204(1); Subsection 204(2) (note 3)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 85 – At the end of section 205

Item 85 inserts new subsections (3) to (7) at the end of section 205 which impose a time limit for the making by the Joint Authority of a decision in relation to the variation of an infrastructure licence. The decision must be made within the period that begins when the application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a ‘period of grace’ at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or of the applicant's record of compliance and other relevant material, which requires access to the former Designated Authorities' records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major

exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities' departments.

In the case of an application to vary an infrastructure licence, the prescribed period will need to allow time to carry out the consultations required by section 206.

There is a 'stop-the-clock' mechanism that commences whenever further information is sought from the applicant and ceases when the information is provided.

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities' departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator's processes become established.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Items 86 and 87 – Subsection 206(3) (note); Subsection 207(3) (note)

These items omit the term "Designated Authority" and replace it with the term "Titles Administrator", to reflect that section 63 has been amended to require all communications to the JA to be made through NOPTA. See items 33 and 34 of Part 1 of Schedule 2.

Item 88 – Paragraph 210(7)(c)

This item omits the term "Designated Authority" and replaces it with the words "NOPSEMA and the Titles Administrator". This will require a person to notify both NOPSEMA and NOPTA as soon as practicable if that person undertakes one of the activities specified in subsection 210(1) in relation to a pipeline, without a pipeline licence, in order to avoid loss or injury, or to maintain a pipeline in good order and repair. Both NOPSEMA and NOPTA must be notified as they each have regulatory responsibilities relating to pipelines.

Item 89 – Paragraph 210(7)(d)

This item omits the term “Designated Authority” and replaces it with the words “NOPSEMA or the responsible Commonwealth Minister”. NOPSEMA and the responsible Commonwealth Minister both have powers to issue directions in circumstances in which a person undertakes one of the activities specified in subsection 210(1) in relation to a pipeline, without a pipeline licence, in order to avoid loss or injury, or to maintain a pipeline in good order and repair.

Item 90 – Subsection 215(2) (at the end of the note)

This item adds the words “or 587A” to reflect the addition of a new section 587A dealing with remedial directions following termination.

Item 91 – Subsection 215(7) (note)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”, to reflect that section 63 has been amended to require all communications to the JA to be made through NOPTA. See items 33 and 34 of Part 1 of Schedule 2.

Item 92 – Subsection 216(2)

This item omits the term “The Designated Authority” and replaces it with the term “The responsible Commonwealth Minister”, including in the heading to this subsection, to provide the responsible Commonwealth Minister with the power to give directions that was previously exercisable by the DA under this subsection.

Item 93 – Paragraph 216(4)(b)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”, to provide NOPTA with the power previously exercisable by the DA under this paragraph.

The heading is also altered by substituting the term “Designated Authority” with the term “Responsible Commonwealth Minister”.

Item 94 – Subsection 216(4)

This item omits the term “Designated Authority”, the second time it appears in this subsection, and replaces it with the term “responsible Commonwealth Minister”, to provide the responsible Commonwealth Minister with the power previously exercisable by the DA under this subsection.

Item 95 – Subsection 216(5)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 96 – Subsection 216(6)

This item omits the term “Designated Authority” and replaces it with the term “responsible Commonwealth Minister”, to reflect the amendment to subsection 216(4) – see item 94 of Part 1 of Schedule 2.

Items 97 to 99 – Subsection 217(1); Subsection 217(3) (note 3); Section 218

These items omit the term “Designated Authority”, wherever occurring, and replace it with the term “Titles Administrator”.

Items 100 to 102 – Subsection 226(1); Subsection 226(2) (note 3); Subsections 226(3) and (4)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 103 – At the end of section 226

Item 103 inserts new subsections (6) to (10) at the end of section 226 which impose a time limit for the making by the Joint Authority of a decision in relation to the variation of a pipeline licence. The decision must be made within the period that begins when the application is made and (subject to agreement with the applicant) runs for a prescribed number of days. The applicant and the Joint Authority may enter into an agreement specifying a different number of days, with the agreement able to be varied or terminated by the parties.

The Joint Authority is not required to comply with the time limit until a period is prescribed for this category of decision under the regulations. The intention here is to allow regulators a ‘period of grace’ at the commencement of the new regulatory arrangements, because the consideration of applications may require knowledge of the prior history of the title or of the applicant's record of compliance and other relevant material, which requires access to the former Designated Authorities' records. These records have been collected, stored and managed by the Designated Authorities since 1980, in paper file form. The transfer of custody of these records will be a major exercise, and it is possible that it will not be complete by the time the Titles Administrator commences operations. This would require the Titles Administrator to arrange for access to material still in the hands of the Designated Authorities' departments.

There is a ‘stop-the-clock’ mechanism that commences whenever further information is sought from the applicant and ceases when the information is provided.

In the case of a decision whether to vary a pipeline licence, it will be necessary to prescribe a period that takes account of the gazettal and public consultation process required by subsections 226(3) and (4).

A failure by the decision-maker to comply with the time limit does not affect the validity of the decision. This is stated expressly in the section in order to ensure that an administrative failure does not affect the validity of instruments issued, such as

titles. A risk of invalidity would severely penalise the applicant, which is not the intent of the provision, and would cast doubt on the integrity of the system of titles.

The decision to prescribe time limit periods in regulations rather than stating them in the Act was made for similar reasons to those set out above. If the periods were stated in the Act, it would be necessary to provide excessively long periods to allow for the possibility of unavoidable delays in particular cases, where reference needed to be made to records either not yet transferred or very recently transferred from the Designated Authorities' departments. Having the periods prescribed by regulations enables the periods to keep pace with improvements in administrative efficiency as the new Titles Administrator's processes become established.

Section 286C requires that, if a Joint Authority contravenes a time limit requirement during a financial year, the Titles Administrator must, within 60 days after the end of the financial year, prepare a report describing the contravention and give the report to the responsible Commonwealth Minister. The Minister must table the report in each House of the Parliament within 15 days after receiving it.

Items 104 to 110 – Subsection 231(1); Subsection 234(1); Section 235; Subsections 236(2) and (3); Subsection 237(3); Subsection 240(1); Subsection 241(2)

These items omit the term “Designated Authority”, wherever occurring, and replace it with the term “Titles Administrator”, to provide NOPTA with the functions and powers previously exercisable by the DA in relation to petroleum special prospecting authorities and petroleum access authorities.

Item 111 – Subsection 242(1) (table)

This item omits the words “the Designated Authority for that offshore area”, wherever occurring, and replaces it with the words “the Titles Administrator”.

Item 112 – Subsection 243(1)

This item makes this subsection a stand-alone section 243, due to the repeal of subsection 243(2) – see item 114 of Part 1 of Schedule 2.

Item 113 – Subsection 243(1)

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”, to provide NOPTA with the functions and powers previously exercisable by the DA under this subsection.

Item 114 – Subsection 243(2)

This item repeals the subsection. The concept of an “adjoining offshore area” is no longer applicable as a result of the amendments made by this Bill.

Item 115 – Subsection 244(2)

This item omits the term “Designated Authority”, where it first occurs, and replaces it with the term “Titles Administrator”.

Item 116 – Paragraph 244(2)(a)

This item omits the words “Designated Authority’s” and replaces them with the words “Titles Administrator’s”.

Items 117 and 118 – Paragraph 244(2)(b); Subsections 244(3) and (4)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 119 – Subsection 245(2)

This item omits the words “Designated Authority for the adjoining offshore area” and replaces them with the term “Titles Administrator”.

Item 120 – Paragraph 245(2)(a)

This item omits the words “Designated Authority’s” and replaces them with the words “Title Administrator’s”.

Items 121 and 122 – Paragraph 245(2)(b); Subsections 245(3) and (4)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 123 – Subsection 246(1)

This item makes this subsection a stand-alone section 246, due to the repeal of subsection 246(2) – see item 125 of Part 1 of Schedule 2.

Item 124 – Subsection 246(1)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”, to provide NOPTA with the power previously exercisable by the DA under this subsection.

Item 125 – Subsection 246(2)

This item repeals the subsection. The concept of an “adjoining offshore area” is no longer applicable as a result of the amendments made by this Bill.

Item 126 – Paragraph 247(1)(b)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 127 – Subsection 247(2)

This item omits the term “Designated Authority”, where it first appears in the subsection, and replaces it with the term “Titles Administrator”.

Item 128 – Paragraph 247(2)(a)

This item omits the words “Designated Authority’s” and replaces them with the words “Titles Administrator’s”.

Items 129 to 131 – Subparagraph 247(2)(b)(ii); Subsections 247(3) and (4); Paragraph 248(1)(b)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 132 – Subsection 248(2)

This item omits the term “Designated Authority for the adjoining offshore area” and replaces it with the term “Titles Administrator”.

Item 133 – Paragraph 248(2)(a)

This item omits the words “Designated Authority’s” and replaces them with the words “Title Administrator’s”.

Items 134 to 142 – Subparagraph 248(2)(b)(ii); Subsections 248(3) and (4); Section 250; Section 258; Subsection 260(1) (heading to table column 3); Subsection 260(1) (table items 1, 3, 5, 7, 9 and 10); Subsections 260(2) and (3); Subsection 262(3) (note); Subsection 264(1) (table item 1)

These items omit the term “Designated Authority”, wherever occurring, and including in the heading to section 258, and replace it with the term “Titles Administrator”.

Item 143 – Subsection 264(1) (table item 2)

This item omits the words “the Designated Authority or the Joint Authority” and replaces them with the words “the Joint Authority, the responsible Commonwealth Minister, the Titles Administrator or NOPSEMA”, to reflect that the JA, the responsible Commonwealth Minister, NOPTA and NOPSEMA are the entities now able to give directions or consents under Chapter 2, Chapter 6 or Part 7.1 of the OPGGS Act, or under the regulations.

Item 144 – Subsection 268(1) (table)

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 145 – Subsection 268(1) (table item 4)

This item inserts the words “or NOPSEMA” before the word “gives”, to reflect that NOPTA or NOPSEMA are the entities now able to give a direction or consent to the registered holder of a petroleum special prospecting authority or a petroleum access authority under Chapter 2, Chapter 6 or Part 7.1 of the OPGGS Act, or under the regulations.

Items 146 and 147 – Subsection 268(2); Subsection 269(1) (heading to column headed “may apply to the Designated Authority for consent to surrender...”)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 148 – Section 270

This item omits the words “The Designated Authority”, wherever occurring, and replaces it with the words “The Joint Authority”, to provide the JA with the powers and functions previously exercisable by the DA under this section.

Item 149 – Paragraph 270(3)(a)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Items 150 and 151 – Paragraph 270(3)(c); Paragraphs 270(3)(d), (e) and (f)

These items omit the words “the Designated Authority” and replace it with the term “NOPSEMA”.

Item 152 – Subsection 270(3)

This item omits the last occurring reference to “Designated Authority” in this subsection, and replaces it with the words “Joint Authority”, to provide the JA with the powers and functions previously exercisable by the DA under this subsection.

Item 153 – Subsection 270(5)

This item omits the words “The Designated Authority”, wherever occurring, and replaces it with the words “The Joint Authority”, to provide the JA with the powers and functions previously exercisable by the DA under this subsection.

Item 154 – Subsection 271(1)

This item omits the term “Designated Authority” and replaces it with the term “Joint Authority”.

Items 155 and 156 – Subsection 271(2); Sections 272 and 273

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 157 – Paragraph 274(b)

This item omits the term “Designated Authority” and replaces it with the words “responsible Commonwealth Minister, NOPSEMA”.

Item 158 – Subsection 276(2) (note)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”, to reflect that section 63 has been amended to require all communications to the JA to be made through NOPTA. See items 33 and 34 of Part 1 of Schedule 2.

Item 159 – At the end of Division 1 of Part 2.13

This item requires NOPSEMA to notify NOPTA if NOPSEMA reasonably believes that there is a ground for cancelling a petroleum exploration permit, a petroleum retention lease, a petroleum production licence, an infrastructure licence, or a pipeline licence.

In the course of undertaking its regulatory activities, NOPSEMA may become aware of matters that could constitute a ground for cancellation of a permit, lease or licence. However, it is the JA that has the power to cancel a title, on the advice of and with regard to information provided by NOPTA. Requiring NOPSEMA to provide information about these matters to NOPTA will ensure that information about matters that may constitute grounds for cancellation of a title, and that NOPTA or the JA may not otherwise become aware of, will be brought to the attention of the appropriate regulatory body.

Item 160 – Section 278

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”, to provide NOPTA with the power previously exercisable by the DA under this section to cancel a petroleum special prospecting authority.

Item 161 – Subsection 281(1)

This item omits the words “the Designated Authority” and replaces them with the words “NOPSEMA, the Titles Administrator”.

Items 162 and 163 – Section 282; Subsection 284(2)

These items omit the term “Designated Authority”, wherever occurring, and replace it with the term “Titles Administrator”.

Item 164 – At the end of Part 2.14

This item inserts a new section 286A, which places notification obligations on registered holders of petroleum titles, and makes it an offence if a person fails to meet their obligations.

Subsection (1) makes it a requirement for any person who is the registered holder, or one of the registered holders, of a petroleum title at the commencement of this item to provide NOPTA and NOPSEMA with contact details, in the approved form, within 30 days of the commencement of this item.

At any time after this item commences, subsection (2) requires a person who becomes the registered holder, or one of the registered holders, of a petroleum title to provide NOPTA and NOPSEMA with contact details, in the approved form, within 30 days of becoming a registered holder.

Subsections (3) and (4) require notification in writing to NOPTA and NOPSEMA when a person ceases to be a registered holder of a petroleum title. This obligation is placed on the person who ceases to be the registered holder of the title, except in the case of death of a titleholder, in which case the person's legal personal representative is the person who must notify NOPTA and NOPSEMA.

Subsection (5) requires a person to notify NOPTA and NOPSEMA when their contact details change, and provide NOPTA and NOPSEMA with updated contact details. This subsection applies every time a registered titleholder changes their contact details.

All notices under subsections (1), (2) and (5) are required to be made in the approved form. NOPTA will make the approved form publicly available by publishing it on the Department's website, as required by this item.

Subsection (6) makes it an offence for a person who is required to notify NOPTA or NOPSEMA under subsections (1), (2), (3), (4) or (5) to fail to notify NOPTA and NOPSEMA as required. An offence against subsection (6) is an offence of strict liability. The application of strict liability to an offence means that a fault element, such as intention to do the act, or not do the act, is not required to be proved. This is to ensure that the legislation can be enforced more effectively, as without these changes applying strict liability the intention to do an act or not do an act needs to be proven.

It is important that NOPTA and NOPSEMA are provided with relevant contact details to ensure that they can effectively undertake their regulatory responsibilities under the OPGGS Act and the regulations, including in relation to matters such as occupational health and safety, structural integrity, the environment, resource management and titles administration. The offshore petroleum industry is a high risk industry, and there may be potentially serious consequences if the industry is not effectively regulated. The intention of the application of strict liability is to improve compliance in the regulatory regime.

This item also inserts new sections 286B and 286C. Section 286B requires the JA to publish any time limits for making decisions, prescribed for the purposes of the provisions listed in that section, on the Department’s website, to ensure that information about time limits is publicly available to interested persons.

Section 286C will apply in the event that a JA contravenes one or more of the provisions relating to time limits during a financial year. NOPTA is required to prepare a report describing any such contraventions within 60 days after the end of the financial year. As soon as practicable after completing the report, NOPTA must provide the report to the responsible Commonwealth Minister, who is required to table the report in each House of the Parliament within 15 sitting days of receiving the report. Requiring preparation and tabling of a report of contraventions of time limits by the JA will ensure that the JA is accountable for instances in which decisions are made outside the prescribed time limits.

Item 165 – Subsection 410(2)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 166 – Section 453

This item omits the words “the Designated Authority”, wherever occurring, and replaces it with the term “NOPSEMA”.

Item 167 – Section 466

This item repeals the existing simplified outline of Chapter 4, and replaces it with a new simplified outline of Chapter 4.

Item 168 – Section 467 (definition of *referable title*)

This item repeals the definition of “referable title” as the concept of “referable title” will no longer be used in the OPGGS Act. See item 10 of Part 1 of Schedule 2.

Item 169 – Section 467 (definition of *Register*)

This item repeals the definition of “Register” and replaces it with a new definition that does not include references to the DA. See Item 171 of Part 1 of Schedule 2.

Item 170 – Section 467

This item inserts a definition for “relevant Register”. This is a new term that is used in the OPGGS Act as a result of the amendments in this Bill. Under the previous arrangements, the DA for each offshore area kept a Register of titles and petroleum special prospecting authorities for its respective offshore area. Under the new arrangements, NOPTA will maintain Registers of petroleum titles and petroleum special prospecting authorities for each offshore area. The “relevant Register”, in relation to a title or special prospecting authority, is the Register for the offshore area to which the title or special prospecting authority relates. In relation to a notice under

subsection 191(5), (6) or (7) that relates to a petroleum pool that is wholly or partly in an offshore area, the “relevant Register” is the Register for the offshore area.

Item 171 – Section 469

This item omits the words “Designated Authority for an offshore area” and replaces them with “Titles Administrator”. NOPTA will be required to keep a Register of titles and petroleum special prospecting authorities for each offshore area.

Item 172 – Section 469

This item inserts the words “for each offshore area” after the words “a Register”. See Item 171 of Part 1 of Schedule 2.

Item 173 – Subsection 470(1)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 174 – Subsection 470(1)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 175 – Subsection 470(2) (table item 7, column headed “the memorial must...”)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 176 – Subsection 470(3)

This item omits the words “Designated Authority must enter in the Register” and replaces it with the words “Titles Administrator must enter in the relevant Register”.

Item 177 – Subsection 470(4)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 178 – Subsection 470(4)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 179 – Subsection 470(5)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 180 – Subsection 470(5)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 181 – Section 471

This item omits the words “Designated Authority must enter in the Register” and replaces it with the words “Titles Administrator must enter in the relevant Register”. See Item 175 of Part 1 of Schedule 2.

Item 182 – Section 471A

This item omits the words “Designated Authority may make a notation in the Register” and replaces it with the words “Titles Administrator may make a notation in the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Items 183 and 184 – Paragraph 472(a); Subsection 473(1)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 185 – Paragraph 474(c)

This item repeals the paragraph, as the concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 186 – Paragraph 474(d)

This item omits the words “if the title is not a referable title” and replaces them with the words “in any case”. The concept of “referable title” will no longer be used in the OPGGS Act, as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 187 – Section 475

This item repeals the section, as the concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 188 – Section 476

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”, to provide NOPTA with the powers previously exercisable by the DA under this section.

Item 189 – Section 477

This item omits the term “Designated Authority”, where it first occurs in the section, and replaces it with the term “Titles Administrator”.

Item 190 – Paragraphs 477(a) and (b)

This item omits the words “in the Register” and replaces them with the words “in the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Items 191 and 192 – Paragraph 477(b); Subsection 478(2)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 193 – Subsection 478(3)

This item repeals the subsection. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 194 – Subsection 478(4)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 195 – Subsection 478(4)

This item omits the words “Designated Authority’s” and replaces them with the words “Titles Administrator’s”.

Item 196 – Subsection 478(5)

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 197 – Subsection 478(5)

This item omits the words “in the Register” and replaces them with the words “in the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 198 – Subsections 478(6) to (9)

This item repeals the existing subsections 478(6) to (9). The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 199 – Subsections 479(1) to (3)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 200 – Subsections 479(3) and (4)

This item omits the words “in the Register” and replaces them with the words “in the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 201 – Subparagraph 479(5)(a)(i)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 202 – Subsection 482(1)

This item omits the words “Designated Authority to have the person’s name entered in the Register” and replaces them with the words “Titles Administrator to have the person’s name entered in the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 203 – Subsection 483(2)

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 204 – Subsection 438(2)

This item omits the words “in the Register” and replaces them with the words “in the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 205 – Subsection 484(1)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 206 – Subsections 484(1) and 485(1)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 207 – Subsection 485(2)

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 208 – Subsection 485(2)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 209 – Section 487

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”, to provide NOPTA with the functions and powers previously exercisable by the DA under this section.

Item 210 – Paragraph 487(b)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Items 211 and 212 – Section 488; Paragraph 489(1)(b)

These items omit the term “Designated Authority”, wherever occurring, and replace it with the term “Titles Administrator”.

Item 213 – Subsection 489(4)

This item repeals the subsection. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 214 – Subsection 489(4A)

This item omits the words “If a dealing does not relate to a referable title, an” and replaces them with the word “An”. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 215 – Section 490

This item repeals the section. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 216 – Section 491

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 217 – Section 492

This item omits the term “Designated Authority”, where it first occurs in the section, and replaces it with the term “Titles Administrator”.

Item 218 – Paragraphs 492(a) and (b)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 219 – Paragraph 492(b)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 220 – Subsection 493(2)

This item omits the words “Designated Authority must” and replaces them with the words “Titles Administrator must”.

Item 221 – Subsection 493(2) (note)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 222 – Subsection 493(3)

This item repeals the subsection. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 223 – Subsection 493(4)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 224 – Subsection 493(4)

This item omits the words “Designated Authority’s” and replaces them with the words “Titles Administrator’s”.

Item 225 – Subsection 493(5)

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 226 – Subsection 493(5)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 227 – Subsections 493(6) to (9)

This item repeals the subsections. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Items 228 and 229 – Subsections 494(1) and (2); Subsection 494(3)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”.

Item 230 – Subsection 494(3)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 231 – Subsection 495(1)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 232 – Subsection 495(1)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See Item 170 of Part 1 of Schedule 2.

Item 233 – Subparagraphs 495(2)(a)(i) and (3)(a)(i)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 234 – Section 496

This item omits the words “the Register” and replaces them with the words “a Register”.

Items 235 and 236 – Section 498; Paragraph 499(1)(b)

These items omit the term “Designated Authority”, wherever occurring, and replace it with the term “Titles Administrator”.

Item 237 – Subsection 499(4)

This item repeals the subsection. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 238 – Subsection 499(4A)

This item omits the words “If a dealing does not relate to a referable title, a” and replaces them with the word “A”. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Item 239 – Section 500

This item repeals the section. The concept of “referable title” will no longer be used in the OPGGS Act as a result of amendments made by this Bill. See Item 10 of Part 1 of Schedule 2.

Items 240 and 241 – Section 503; Section 504

These items omit the term “Designated Authority”, wherever occurring, and replace it with the term “Titles Administrator”, to provide NOPTA with the powers previously exercisable by the DA under these sections.

Item 242 – Section 504

This item omits the words “the Register”, where they first occur in the section, and replaces them with the words “a Register”.

Item 243 – Subsection 505(1)

This item omits the term “Designated Authority”, where it first occurs in the subsection, and replaces it with the term “Titles Administrator”.

Item 244 – Subsection 505(1)

This item omits the words “the Register”, where they first occur in the subsection, and replaces them with the words “a Register”.

Item 245 – Subsection 505(1)

This item omits the term “Designated Authority”, where it secondly occurs in the subsection, and replaces it with the term “Titles Administrator”.

Item 246 – Subsection 505(2)

This item omits the term “Designated Authority”, wherever occurring, in the subsection, and replaces it with the term “Titles Administrator”.

Item 247 – Paragraph 505(2)(b)

This item omits the words “Designated Authority’s” and replaces them with the words “Titles Administrator’s”.

Item 248 – Subsection 505(3)

This item omits the term “Designated Authority”, where it first occurs in the subsection, and replaces it with the term “Titles Administrator”.

Item 249 – Subsection 505(3)

This item omits the words “the Register”, where they first occur in the subsection, and replaces them with the words “a Register”.

Item 250 – Subsection 505(3)

This item omits the term “Designated Authority”, where it secondly occurs in the subsection, and replaces it with the term “Titles Administrator”.

Items 251 and 252 – Paragraphs 505(3)(a) and (b); Subsection 505(5)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 253 – Subsection 505(6)

This item omits the term “Designated Authority”, where it first occurs in the subsection, and replaces it with the term “Titles Administrator”.

Item 254 – Subsection 505(6)

This item omits the words “the Register” and replaces it with the words “a Register”.

Item 255 – Subsection 505(6)

This item omits the term “Designated Authority”, where it secondly occurs in the subsection, and replaces it with the term “Titles Administrator”.

Items 256 to 264 – Subsection 506(4); Subsections 506(5) and (6); Section 507; Section 508; Section 509; Section 510; Section 511; Subparagraph 514(1)(b)(ii); Subsection 515(1)

These items omit the term “Designated Authority”, wherever occurring and including in the headings to subsections 506(4) and (5) and sections 507, 508, 510 and 511, and replace it with the term “Titles Administrator”.

Item 265 – Subsection 515(1)

This item omits the words “the Register” and replaces them with the words “each Register”.

Items 266 and 267 – Subsection 515(2); Section 516

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 268 – Paragraph 516(2)(a)

This item omits the words “the Register” and replaces it with the words “a Register”.

Item 269 – Section 518

This item omits the existing simplified outline of Part 5.1 of Chapter 5 of the OPGGS Act, and replaces it with a new simplified outline.

Items 270 to 282 – Section 521; Subsection 522(1); Subsection 522(2) (table item 5, column headed “the memorial must...”); Subsection 522(3); Subsection 522(4); Subsection 522(5); Section 523; Section 523A; Paragraph 524(a); Subsection 525(1); Section 527; Section 528; Subsections 529(2) and (3)

These items omit the term “responsible Commonwealth Minister”, wherever occurring, and replace it with the term “Titles Administrator”.

Item 283 – Paragraph 529(3)(c)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 284 – Subsection 529(4)

This item omits the term “responsible Commonwealth Minister” and replaces it with the term “Titles Administrator”.

Item 285 – Paragraph 529(4)(c)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 286 – Subsection 529(5)

This item omits the term “responsible Commonwealth Minister” and replaces it with the term “Titles Administrator”.

Item 287 – Subsection 529(5)

This item omits the term “responsible Commonwealth Minister’s” and replaces it with the term “Titles Administrator’s”.

Items 288 to 298 – Subsection 529(6); Section 530; Subsection 533(1); Subsection 534(2); Subsection 535(1); Subsection 536(2); Section 538; Section 539; Paragraph 540(1)(b); Section 541; Section 542

These items omit the term “responsible Commonwealth Minister”, wherever occurring, and replace it with the term “Titles Administrator”.

Item 299 – Subsection 543(2)

This item omits the first occurring words “responsible Commonwealth Minister must” and replaces it with the words “Titles Administrator must”.

Items 300 to 301 – Subsection 543(2) (note); Subsection 543(3)

This item omits the term “responsible Commonwealth Minister” and replaces it with the term “Titles Administrator”.

Item 302 – Subsection 543(3)

This item omits the term “responsible Commonwealth Minister’s” and replaces it with the term “Titles Administrator’s”.

Items 303 to 310 – Subsection 543(4); Section 544; Section 545; Section 548; Paragraph 549(1)(b); Section 552; Section 553; Subsections 554(1) and (2)

These items omit the term “responsible Commonwealth Minister”, wherever occurring, and replace it with the term “Titles Administrator”.

Item 311 – Paragraph 554(2)(b)

This item omits the term “responsible Commonwealth Minister” and replaces it with the term “Titles Administrator”.

Item 312 – Subsections 554(3), (5) and (6)

This item omits the term “responsible Commonwealth Minister”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 313 – Subsection 555(4)

This item omits the term “responsible Commonwealth Minister”, including in the heading, and replaces it with the term “Titles Administrator”.

Items 314 to 322 – Subsections 555(5) and (6); Section 556; Section 557; Section 558; Section 559; Section 560; Subparagraph 563(b)(ii); Subsections 564; Section 565

These items omit the term “responsible Commonwealth Minister”, wherever occurring and including in the headings to subsection 555(5) and sections 556, 557, 559 and 560, and replace it with the term “Titles Administrator”.

Item 323 – Paragraph 568(2)(b)

This item omits the term “Designated Authority” and replaces it with the term “Joint Authority”.

Item 324 – Subsection 569(1) (table item 1)

This item omits the term “Designated Authority” and replaces it with the term “Titles Administrator”.

Item 325 – Paragraph 569(8)(c)

This item inserts the words “or 574A” after the number “574”, to reflect the inclusion of a new section 574A in the OPGGS Act to which section 569 is subject. See Item 333 of Part 1 of Schedule 2.

Item 326 – Subsections 571(1) and (2)

This item omits the term “Designated Authority” and replaces it with the term “responsible Commonwealth Minister”, to provide to the responsible Commonwealth Minister the powers previously exercisable by the DA under these subsections.

Item 327 – Paragraph 572(7)(c)

This item inserts “574A” after “574”, to reflect the inclusion of a new section 574A in the OPGGS Act to which section 572 is subject. See Item 333 of Part 1 of Schedule 2.

Part 6.2—Directions relating to petroleum

The power to give directions under Part 6.2 has underpinned the general regulatory role of the Designated Authorities. The power is comprehensive, as directions can be given with respect to any matter that is within the regulation making power in Part 9.11, which extends to all aspects of the exploration for, or recovery, processing or piped conveyance of petroleum.

The Designated Authorities’ powers to give directions covered both the regulation of operations and also resource management and resource security. With the abolition of the Designated Authorities, it is necessary to distribute the powers between the two entities that will replace the Designated Authorities. NOPSEMA is to have conferred on it the full range of direction-giving powers of the Designated Authorities. While NOPSEMA does not have responsibility for resource management matters, many aspects of NOPSEMA’s regulation of operations will have the potential to impact on resource management, and it would hamper NOPSEMA’s performance of its functions if it were prevented from taking any action that had such potential impacts.

The Joint Authority will be the entity with primary responsibility for resource management, and it would fit the general scheme of the Act if the Joint Authority were to have the direction-giving powers with respect to resource management. However, the Joint Authorities for the States and the Northern Territory cannot take action without communications between the Commonwealth and State or Territory members, with each requiring policy advice and recommendations before a decision is made. This will make the giving of directions a fairly slow process, when a direction may need to be given within a day if (for example) a direction to prevent the drilling of a well in a particular location is to be given. For this reason, the power to give directions in relation to resource management is to be given to the responsible Commonwealth Minister. The giving of a direction relating to resource management is likely to be a relatively rare event. Resource management usually takes place in the context of the grant of retention leases or production licences and the attaching of conditions to those titles, and in the approval of field development plans, which are all

Joint Authority processes. The conferral of the direction-giving power on the responsible Commonwealth Minister is therefore not seen as resulting in any significant shift in functions as between the Commonwealth and the States and Northern Territory. If it appears over time that an unintended alteration in the balance has occurred, this approach will be re-evaluated.

The drafting approach that has been taken is to confer on NOPSEMA the general direction-giving power of the Designated Authorities in section 574. The responsible Commonwealth Minister is also given the same general direction-giving power by new section 574A. The responsible Commonwealth Minister's power in section 574A is, however, curtailed by the requirement that the matter in relation to which the direction is given must be a matter that relates to resource management, or resource security or a matter in relation to which regulations may be made for the purposes of section 698 (which relates to data management).

New subsection 574(9A) provides that, if NOPSEMA gives a direction that it considers may have significant consequences for resource management or resource security, NOPSEMA must give the responsible Commonwealth Minister a copy of the direction as soon as practicable after it is given.

Subsection 574A(12) makes provision to deal with the unlikely event that inconsistent directions are given by NOPSEMA and the responsible Commonwealth Minister. The subsection provides that the direction by NOPSEMA has no effect to the extent of the inconsistency.

Item 328 – Section 573 Simplified outline

This item repeals the existing simplified outline, and replaces it with a new simplified outline of Part 6.2.

Item 329 – Subsection 574(2)

This item omits the words “the Designated Authority” and replaces them with the term “NOPSEMA”. NOPSEMA will have the power, previously exercisable by the DA, to give the registered holder of a title a direction as to any matter in relation to which regulations may be made. NOPSEMA must not give a direction of a standing or permanent nature without the approval of the JA; however the validity of a direction is not affected if such approval has in fact not been sought.

This item also adds “-NOPSEMA” to the end of the heading to section 574.

Item 330 – At the end of subsection 574(2)

This item adds a note to the effect that a direction under section 574 does not have any effect to the extent that it is inconsistent with a direction given by the responsible Commonwealth Minister under section 574A. See item 333 of Part 1 of Schedule 2.

Item 331 – Subsection 574(5)

This item omits the words “The Designated Authority” and replaces them with the term “NOPSEMA”.

Item 332 – After subsection 574(9)

This item inserts a new subsection (9A), which requires NOPSEMA to give to the responsible Commonwealth Minister a copy of a direction given by NOPSEMA under section 574, where NOPSEMA considers that the direction may have significant consequences for resource management or resource security. This will enable the responsible Commonwealth Minister to review the direction from a resource management perspective, and give a direction under section 574A if the Minister believes it is necessary to avoid undesirable consequences to resource management or resource security. The direction given by NOPSEMA will then become of no effect to the extent that it is inconsistent with the direction given by the responsible Commonwealth Minister – see item 333 of Part 1 of Schedule 2.

Item 333 – After subsection 574

This item inserts a new section 574A, which gives the responsible Commonwealth Minister the power to give to the registered holder of a title, by written notice, a direction as to any matter in relation to which regulations may be made, as long as that matter relates to resource management, resource security, or is a matter in relation to which regulations may be made for the purposes of section 698 (relating to data management).

A direction may be expressed to apply to both the registered holder of the title, and a specified class of persons that includes or is within one or more of the following classes:

- Employees or agents of the registered holder;
- Persons performing work or services for the registered holder.

A direction may also be expressed to apply to both the registered holder of the title, and any other person in the offshore area for any reason concerning or connected with exploration for or exploitation of petroleum, or any other person in, on or near a vessel, aircraft, structure, installation or equipment that is connected with the exploration for or exploitation of petroleum resources. A direction that is expressed to apply to both the registered holder of the title and any other person in the vicinity of or connected with petroleum exploitation or exploration is a legislative instrument. However, any other direction will not be a legislative instrument.

A direction given by the responsible Commonwealth Minister will prevail over a direction given by NOPSEMA under section 574, but only to the extent of any inconsistency between the two. The content of the direction given by NOPSEMA that is not inconsistent with the direction given by the responsible Commonwealth Minister will continue to apply.

The responsible Commonwealth Minister must not give a direction of a standing or permanent nature without the approval of the JA; however if the requisite approval has not been granted the validity of the direction will not be affected.

A direction given by the responsible Commonwealth Minister may apply, adopt or incorporate a code of practice or standard contained in an instrument. To ensure regulatory certainty for persons who are subject to a direction, any code of practice or standard that is adopted by a direction is required to be published on the Department's website (subject to copyright).

Item 334 – Subsection 575(3)

This item omits the term “Designated Authority” and replaces it with the term “NOPSEMA”.

Item 335 – After subsection 575(3)

This item inserts new subsections 575(3A), (3B) and (3C).

Subsection 575(3A) applies when a direction given by the responsible Commonwealth Minister applies to a registered holder of a title and to a person from a specified class of persons in accordance with paragraph 574A(3)(a). The registered holder is required to either give a copy of the notice by which the direction was given to that other person, or display the notice at a prominent position at a place in the offshore area frequented by that person.

Subsections 575(3B) and (3C) apply when a direction given by the responsible Commonwealth Minister applies to a registered holder of a title and a person referred to in paragraph 574A(3)(b). The registered holder is required to display the notice by which the direction was given at a prominent position in the offshore area. In addition, the responsible Commonwealth Minister may, by written notice, require the registered holder to display copies of the notice by which the direction was given at such places in the offshore area and in such manner as specified in the notice.

These subsections will ensure that persons to whom a direction applies are provided with the best possible opportunity to become aware of the existence and content of the direction.

Item 336 – Paragraph 575(4)(a)

This item omits the words “or (3)” and substitutes the words “, (3), (3A), (3B) or (3C)”. It is an offence if a registered holder of a title is subject to a requirement under subsection 575(1), (2), (3), (3A), (3B) or (3C), relating to notification of a direction that applies to one or more persons in addition to the registered holder, and the registered holder fails to meet that requirement. See also Item 335 of Part 1 of Schedule 2.

Item 337 – Paragraphs 576(1)(a) and (3)(a)

This item inserts “or 574A” after “574”, to reflect the inclusion of a new section 574A in the OPGGS Act. See Item 333 of Part 1 of Schedule 2.

A person commits an offence if they are subject to a direction under either section 574 (given by NOPSEMA) or 574A (given by the responsible Commonwealth Minister), and the person engages in conduct that breaches the direction. Although the OPGGS Act and regulations cover a broad range of regulatory matters, the case for NOPSEMA and the responsible Commonwealth Minister to be able to issue ad hoc directions to individual titleholders or classes of titleholders remains strong. For instance, there is the possibility that, on a particular offshore facility, an emergency situation may arise that the regulations address inadequately or not at all. The option of promulgating a new regulation to cover the situation could be ruled out by the length of time that would be required to go through the Executive Council processes. It could also be ruled out by the consideration that any new regulation might be an indiscriminate instrument applying to all operators, which might not be the desired result. It is appropriate for the appropriate and effective administration of a high risk industry, where the consequences of incidents may be significant to human life and the environment, to require persons to comply with directions issued by NOPSEMA or the responsible Commonwealth Minister, and to make it an offence for a person to fail to do so.

An offence against subsection 576(1) is an offence of strict liability. The application of strict liability to an offence means that a fault element, such as intention to do the act, or not do the act, is not required to be proved. This is to ensure that the legislation can be enforced more effectively as, without the application of strict liability the intention to do an act or not do an act needs to be proven. Given the remote and complex nature of offshore operations and the prevalence of multiple titleholder arrangements it is extremely difficult to prove intent. The intention of the application of strict liability is to improve compliance in the regulatory regime. This is particularly important given the high risk nature of offshore petroleum operations, and the potentially serious consequences to people and the environment in the event of an offence being committed.

Setting the penalty at 100 penalty units is considered appropriate. It is noted this is higher than the preference stated in A Guide To Framing Commonwealth Offences, Civil Penalties and Enforcement Powers, December 2007 for a maximum 60 penalty units for offences of strict liability. However, offshore resources activities, as a matter of course, require a very high level of expenditure and therefore by comparison a smaller penalty would be an ineffective deterrent. This is also consistent with other provisions in the OPGGS Act, which set the penalty for a strict liability offence at 100 penalty units.

Subsection 576(3) provides a defence for prosecution for an offence against subsection (1) to effect that, if the direction under section 574 or 574A applies to a registered holder of a title and another person, and the other person can provide evidence that they did not know, and could not reasonably have known, of the existence of the direction, the other person will not be convicted of the offence, unless the prosecution can prove otherwise. The onus of proof is placed on the defence in

this subsection as the facts as to whether the defendant did not know, or could not reasonably have known, of the existence of the direction are peculiarly within the knowledge of the defendant. This is particularly the case given the remote nature of offshore petroleum operations.

Item 338 – Division 3 of Part 6.2 (heading)

This item repeals the heading, and substitutes a new heading for this Division.

Item 339 – Subsection 577(1)

This item omits the words “the Designated Authority”, wherever occurring and including in the headings to section 577 and subsection 577(1), and substitutes the term “NOPSEMA”.

Item 340 – Subsection 577(2)

This item repeals the subsection.

Item 341 – Subsection 577(3)

This item omits the words “the Designated Authority”, including in the heading to subsection 577(3), and substitutes the term “NOPSEMA”.

Item 342 – At the end of Division 3 of Part 6.2

This item inserts a new section 577A, which provides that the responsible Commonwealth Minister has the power to take action in the event of a breach of a direction given by the responsible Commonwealth Minister under Part 6.2 of the OPGGS Act. This item provides the necessary machinery for ensuring that things directed to be done are done even if the titleholder or another party who is bound by the direction does not comply with it.

Subsection (2) provides for the responsible Commonwealth Minister to be able to recover costs or expenses incurred by the responsible Commonwealth Minister in taking the relevant action(s) in a court of competent jurisdiction from the person who was subject to the direction.

Subsection (3) provides an exception in an action under subsection (2) to effect that, if the direction under section 574 or 574A applies to a registered holder of a title and another person, and the other person can provide evidence that they did not know, and could not reasonably have known, of the existence of the direction, the other person will not be liable to pay costs and expenses, unless the plaintiff can prove otherwise. The onus of proof is placed on the defendant in this subsection as the facts as to whether the defendant did not know, or could not reasonably have known, of the existence of the direction are peculiarly within the knowledge of the defendant. This is particularly the case given the remote nature of offshore petroleum operations.

Subsection (4) provides another defence, one that is equally available to the titleholder and any other person bound by the direction, if the defendant can prove

that they took all reasonable steps to comply with the direction. As for subsection (3), the onus of proof is placed on the defendant as only the defendant will have knowledge of the steps taken to comply with the direction, particularly given the remote nature of offshore petroleum operations.

Item 343 – Section 578

This item makes the existing text subsection 578(1).

Item 344 – Section 578

This item omits the words “the Designated Authority” and substitutes the term “NOPSEMA”.

Item 345 – Section 578 (note)

This item omits the word “section” and replaces it with the word “subsection”. See Item 344.

Item 346 – At the end of section 578

This item inserts a new subsection 578(2) to provide a defence in a prosecution for an offence in relation to a breach of a direction given by the responsible Commonwealth Minister. It is a defence if the defendant can prove that they took all reasonable steps to comply with the direction. The onus of proof is placed on the defendant as only the defendant will have knowledge of the steps taken to comply with the direction, particularly given the remote nature of offshore petroleum operations.

Item 347 – Subparagraph 583(1)(a)(ii)

This item inserts “(other than Part 6.2)” after “Chapter”. The new section 577A provides the responsible Commonwealth Minister with the power to take action in the event of a breach of a direction given by the responsible Commonwealth Minister under Part 6.2, and therefore the reference to this Part is excluded in subsection 583(1). See Item 297.

Item 348 – Paragraph 584(b)

This item inserts “(other than Part 6.2)” after “Chapter”. The new subsection 578(2) makes it a defence in a prosecution for an offence in relation to a breach of a direction given by the responsible Commonwealth Minister under Part 6.2 if the defendant took all reasonable steps to comply with the direction, and therefore the reference to this Part is excluded in section 584. See Item 300.

Item 349 – Section 585

This item omits the existing simplified outline of Division 1 of Part 6.4 of the OPGGS Act, and replaces it with a new simplified outline of the Division, which includes a description of the functions and powers of NOPSEMA and the responsible Commonwealth Minister in this Division.

Item 350 – Subsection 586(2)

This item omits the words “the Designated Authority” and substitutes the term “NOPSEMA”. This item also amends the heading to section 586 by adding at the end of the heading “-NOPSEMA”.

Item 351 – Subsections 586(2)

This item omits the words “the Designated Authority”, wherever occurring, and replaces it with the term “NOPSEMA”, to provide NOPSEMA with the functions and powers previously exercisable by the DA under these subsections.

Item 352 – At the end of subsection 574(2)

This item adds a third note clarifying that a direction issued under this section has no effect to the extent that it is inconsistent with a direction issued under section 586A – see subsection 586A(9).

Item 353 – Subsections 586(3)

This item omits the words “the Designated Authority”, wherever occurring, and replaces it with the term “NOPSEMA”, to provide NOPSEMA with the functions and powers previously exercisable by the DA under these subsections.

Item 354 – After section 586

This item gives the responsible Commonwealth Minister the power to issue remedial directions to current holders of petroleum exploration permits, petroleum retention leases, petroleum production licences, infrastructure licences, or pipeline licences.

The direction may direct the titleholder to plug or close off wells in the title area, provide for the conservation and protection of natural resources in the title area, and/or make good any damage to the seabed or subsoil in the title area by the applicable date. The applicable date for a permit, lease or fixed-term petroleum production licence is the expiry date of the permit, lease or licence. For a petroleum production licence that is not a fixed-term licence, an infrastructure licence, or a pipeline licence, the applicable date is the first date on which the licence can be terminated under the OPGGS Act. The direction must be given in writing.

A remedial direction given by the responsible Commonwealth Minister must be for a purpose that relates to resource management or resource security. NOPSEMA has the power more broadly under section 586 to issue remedial directions generally. However, if a direction given by NOPSEMA is inconsistent with a direction given by the responsible Commonwealth Minister, the direction given by the responsible Commonwealth Minister will prevail to the extent of any inconsistency. To the extent that any part of the direction given by NOPSEMA is not inconsistent, both directions will operate concurrently.

Subsection (5) makes it an offence for a person who is subject to a direction to fail to comply with the direction. Subsection (6) makes an offence against subsection (5) an offence of strict liability. The application of strict liability to an offence means that a fault element, such as intention to do the act, or not do the act, is not required to be proved. This is to ensure that the legislation can be enforced more effectively as, without the application of strict liability the intention to do an act or not do an act needs to be proven. Given the remote and complex nature of offshore operations and the prevalence of multiple titleholder arrangements it is extremely difficult to prove intent. The intention of the application of strict liability is to improve compliance in the regulatory regime. This is particularly important given the high risk nature of offshore petroleum operations, and the potentially serious consequences to people and the environment in the event of an offence being committed.

Setting the penalty at 100 penalty units is considered appropriate. It is noted this is higher than the preference stated in A Guide To Framing Commonwealth Offences, Civil Penalties and Enforcement Powers, December 2007 for a maximum 60 penalty units for offences of strict liability. However, offshore resources activities, as a matter of course, require a very high level of expenditure and therefore by comparison a smaller penalty would be an ineffective deterrent. This is also consistent with other provisions in the OPGGS Act, which set the penalty for a strict liability offence at 100 penalty units.

Item 355 – Subsection 587(2)

This item omits the words “the Designated Authority” and substitutes the term “NOPSEMA”. This item also amends the heading to section 586 by adding at the end of the heading “-NOPSEMA”.

Item 356 – Subsections 587(2)

This item omits the words “the Designated Authority”, wherever occurring, and replaces it with the term “NOPSEMA”, to provide NOPSEMA with the functions and powers previously exercisable by the DA under this subsection.

Item 357 – At the end of subsection 587(2)

This item adds a note clarifying that a direction issued under this section has no effect to the extent that it is inconsistent with a direction issued under section 587A – see subsection 587A(8).

Item 358 – Subsection 587(4)

This item omits the words “the Designated Authority”, wherever occurring, and replaces it with the term “NOPSEMA”, to provide NOPSEMA with the functions and powers previously exercisable by the DA under this subsection.

Item 359 – After section 587

This item inserts a new section 587A which gives the responsible Commonwealth Minister the power to issue remedial directions to former holders of petroleum

exploration permits, petroleum retention leases, petroleum production licences, infrastructure licences, or pipeline licences.

The direction may direct the person to plug or close off wells in the vacated area, provide for the conservation and protection of natural resources in the vacated area, and/or make good any damage to the seabed or subsoil in the vacated area within a specified period. The specified period must be reasonable. The direction must be given in writing.

A remedial direction given by the responsible Commonwealth Minister must be for a purpose that relates to resource management or resource security. NOPSEMA has the power more broadly under section 587 to issue remedial directions generally. However, if a direction given by NOPSEMA is inconsistent with a direction given by the responsible Commonwealth Minister, the direction given by the responsible Commonwealth Minister will prevail to the extent of any inconsistency. To the extent that any part of the direction given by NOPSEMA is not inconsistent, both directions will operate concurrently.

Subsection (6) makes it an offence for a person who is subject to a direction to fail to comply with the direction. Subsection (7) makes an offence against subsection (6) an offence of strict liability. The application of strict liability to an offence means that a fault element, such as intention to do the act, or not do the act, is not required to be proved. This is to ensure that the legislation can be enforced more effectively as, without the application of strict liability the intention to do an act or not do an act needs to be proven. Given the remote and complex nature of offshore operations and the prevalence of multiple titleholder arrangements it is extremely difficult to prove intent. The intention of the application of strict liability is to improve compliance in the regulatory regime. This is particularly important given the high risk nature of offshore petroleum operations, and the potentially serious consequences to people and the environment in the event of an offence being committed.

Setting the penalty at 100 penalty units is considered appropriate. It is noted this is higher than the preference stated in A Guide To Framing Commonwealth Offences, Civil Penalties and Enforcement Powers, December 2007 for a maximum 60 penalty units for offences of strict liability. However, offshore resources activities, as a matter of course, require a very high level of expenditure and therefore by comparison a smaller penalty would be an ineffective deterrent. This is also consistent with other provisions in the OPGGS Act, which set the penalty for a strict liability offence at 100 penalty units.

Items 360 to 363 – Section 588; Section 589(1); Subsections 589(2), (4) and (5)

These items omit the words “the Designated Authority”, wherever occurring and including in the heading to sections 588 and 589 and subsection 588(2), and substitute the term “NOPSEMA”, to provide NOPSEMA with the functions and powers previously exercisable by the DA under these sections.

Item 364 – At the end of Division 1 of Part 6.4

This item inserts a new section 590A, which provides that the responsible Commonwealth Minister has the power to take action in the event of a breach of a direction given by the responsible Commonwealth Minister under section 587A. This item provides the necessary machinery for ensuring that things directed to be done are done even if the titleholder or another party who is bound by the direction does not comply with it.

Item 365 – Section 599

This item omits the words “the Designated Authority” and substitutes the term “NOPSEMA”.

Item 366 – Subsection 600(1)

This item omits the words “The Designated Authority for an offshore area” and substitutes the term “NOPSEMA”.

Item 367 – Subsection 600(1)

This item omits the words “the offshore area” and substitutes the term “an offshore area”.

Item 368 – Subsection 600(2)

This item omits the words “The Designated Authority” and substitutes the term “NOPSEMA”.

Item 369 – Subsection 600(3)

This item repeals the existing subsection, and substitutes it with a new subsection enabling NOPSEMA to issue an identity card to a petroleum project inspector, instead of the DA.

Items 370 – Section 600(4)(c)(i) and (ii)

This item omits the words “the Designated Authority” and substitutes the term “NOPSEMA”, to provide NOPSEMA with the functions and powers previously exercisable by the DA.

Item 371 – At the end of section 600

This item inserts a new subsection 600(7) that provides for circumstances where a NOPSEMA project inspector does work preparatory to a possible exercise of powers, or exercises powers, for a purpose that relates to a function or power of the Titles Administrator. NOPSEMA and the Titles Administrator may, with the agreement of the responsible Commonwealth Minister make a written determination that provides that, in such circumstances, an amount is to be debited from the NOPTA Special Account and credited to the NOPSEMA Special Account. Under this provision, the

determination is self-executing and the amounts may be debited and credited accordingly.

Subsection 600(8) is merely declaratory of the law and included to assist readers, as the instruments are not legislative instruments within the meaning of section 5 of the *Legislative Instruments Act 2003*.

Items 372 to 376 – Section 612; Section 614 (paragraph (b) of the definition of *exempt vessel*); Subsection 615(2); Subsection 616(1); Section 618

These items omit the words “the Designated Authority”, wherever occurring and including in the heading to section 618, and substitute the term “NOPSEMA”.

Items 377 to 378 –Section 635; Subsection 636(1)

These items omit the term “Designated Authority”, wherever occurring and including in the headings to section 635, and substitute the term “Titles Administrator”.

Item 379 – After paragraph 636(1)(e)

This item inserts:

- “(ea) a fee under subsection 564(1) or (2);
- (eb) a fee under subsection 565(2) or (4);”

Item 380 – Paragraph 636(1)(g)

This item omits the term “Designated Authority” and substitutes the term “Titles Administrator”.

Item 381 – Paragraphs 636(2)(d) and (e)

This item repeals the paragraphs.

Item 382 – After paragraph 638(1)(d)

This item adds Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (RMA Regulations) to the listed OHS laws for the purposes of the OPGGS Act, to the extent to which Part 5 relates to occupational health and safety matters. The regulations in Part 5 of the RMA Regulations relate to well operations and well activities.

Item 383 – Part 6.9 (heading)

This item repeals the existing heading to this Part, and substitutes a new heading to Part 6.9.

Item 384 – Section 642

This item repeals the existing simplified outline of Part 6.9, and replaces it with a new simplified outline of Part 6.9.

Item 385 – Section 643 (definition of *Board*)

This item updates the definition of “Board” to reflect the name change of the National Offshore Petroleum Safety Authority Board to the National Offshore Petroleum Safety and Environmental Management Authority Board. Section 25B of the *Acts Interpretation Act 1901* provides that, where an Act alters the name of a body, or alters the name of an office, then, unless the contrary intention appears, the body or the office continues in existence under the new name so that its identity is not affected

Item 386 – Section 643 (definition of *CEO*)

This item updates the definition of “CEO” to reflect the change in name from the Safety Authority to NOPSEMA. Section 25B of the *Acts Interpretation Act 1901* provides that, where an Act alters the name of a body, or alters the name of an office, then, unless the contrary intention appears, the body or the office continues in existence under the new name so that its identity is not affected

Item 387 – Section 643

Item 327 includes a definition of ‘environmental management law’. It means the provisions of the Act and the regulations to the extent to which they relate to offshore petroleum or greenhouse gas environmental management in Commonwealth waters. The defined term includes the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* and provisions of the Act, such as the powers of NOPSEMA to give directions under Parts 6.2, 6.3 and 6.4 in relation to the restoration of the environment at the decommissioning stage of a petroleum or greenhouse gas project.

Item 388 – Section 643 (paragraph (b) of the definition of *Greenhouse Gas Storage Ministerial Council*)

This item updates the name of “the Ministerial Council on Mineral and Petroleum Resources” to “the Standing Council on Energy and Resources”.

Item 389 – Section 643

This item inserts a definition for “NOPSEMA waters”. The term means Commonwealth waters and the designated coastal waters of each State and of the Northern Territory. This is the same definition of ‘Safety Authority waters’ in which NOPSA at present operates

Item 390 – Section 643

Item 329 inserts a definition of ‘offshore greenhouse gas storage environmental management’. It means the prevention, management, mitigation or remediation of the

environmental impacts of greenhouse gas activities under the Commonwealth Act or under the Petroleum Submerged Lands Act of a State or Northern Territory.

Item 391 – Section 643 (definition of *offshore greenhouse gas storage operations*)

This item omits the term “Safety Authority”, wherever occurring, and replaces it with the term “NOPSEMA”.

Item 392 – Section 643

Item inserts a definition of ‘offshore petroleum environmental management’. It means the prevention, management, mitigation or remediation of the environmental impacts of petroleum activities under the Commonwealth Act or under the Petroleum Submerged Lands Act of a State or Northern Territory.

Item 393 – Section 643 (definition of *offshore petroleum operations*)

This item omits the term “Safety Authority”, wherever occurring, and replaces it with the term “NOPSEMA”.

Item 394 Section 643 (definition of *regulated operation*)

Item 332A extends the definition of ‘regulated operation’ to a greenhouse gas operation. Previously, it referred only to a petroleum operation.

Item 395 – Section 643 (definition of *Regulatory Levies Act*)

This item repeals the definition. A definition for “Regulatory Levies Act” is being included in section 7. See item 9.

Item 396 – Section 643 (definition of *Safety Authority waters*)

This item repeals the definition. A definition for “NOPSEMA waters” is being included in section 643. See item 328 of Part 1.

Item 397 – Division 2 of Part 6.9 (heading)

This item repeals the existing heading to this Division, and substitutes a new heading to Division 2 of Part 6.9.

Item 398 – Section 645

This item continues the existence of the National Offshore Petroleum Safety Authority as the National Offshore Petroleum Safety and Environmental Management Authority.

Section 25B of the *Acts Interpretation Act 1901* provides that, where an Act alters the name of a body, or alters the name of an office, then, unless the contrary intention

appears, the body or the office continues in existence under the new name so that its identity is not affected.

Item 399 – Section 646 Functions of NOPSEMA

Occupational health and safety (OHS)

The OHS functions of NOPSEMA in Commonwealth waters as conferred by paragraphs (a) to (g) of section 646 remain textually almost unchanged. It is not intended that the amendments to subsequent paragraphs in section 646, or the addition of new paragraphs, will limit the scope of NOPSEMA's OHS-related functions in any way, in comparison with their existing scope. In particular, the removal of the words 'non-OHS' from paragraphs 646(ga), (gb), (gc), (gd) or (gf) will not limit NOPSEMA's OHS functions in relation to OHS-related structural integrity matters. NOPSEMA's OHS-related functions always did include structural integrity of facilities, including pipelines. This will continue to be the case with NOPSEMA's OHS functions in paragraphs 646(a) to (g). Consequently, there will be a substantial degree of overlap between NOPSEMA's functions in relation to OHS and its functions in relation to structural integrity. There will also be substantial overlap between NOPSEMA's structural integrity functions and its environmental management functions. This is because there is no clear dividing line between these pairs of functions. Structural integrity of facilities, wells and well-related equipment is an essential element both of OHS and of environmental management of offshore petroleum and (potentially) greenhouse gas storage activities. The intention behind the drafting of the functions in paragraphs (a) to (gn) of section 646 is that it should not, in relation to Commonwealth waters operations of NOPSEMA, be necessary to distinguish with any exactness between OHS and structural integrity or between structural integrity and environmental management.

Structural integrity of facilities, wells and well-related equipment

The words 'non-OHS' are being removed from the term 'structural integrity' in paragraphs (ga) to (gf). The purpose of doing this is to give 'structural integrity' its full meaning in these paragraphs, so that there is no need to distinguish between OHS-related and non OHS-related structural integrity. As stated above, the result will be that the OHS-related functions and structural integrity-related functions of NOPSEMA in Commonwealth waters will overlap substantially.

The term 'structural integrity' is defined (inclusively) in section 7. As defined, the term refers to structural integrity in connection either with the containment of petroleum or other substance, or with the health or safety of persons engaged in petroleum operations or greenhouse gas operations. NOPSEMA's focus in relation to structural integrity is therefore on risks in connection with containment of substances or in connection with OHS, or both.

Offshore petroleum and offshore greenhouse gas environmental management

Item 122 inserts new paragraphs 646(gg) to (gn) which confer on NOPSEMA new functions in relation to offshore petroleum environmental management and offshore greenhouse gas environmental management.

In the case of petroleum, NOPSEMA will be the regulator under the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* ('Environment Regulations'). Those Regulations are at present focused on the acceptance of environment plans and the monitoring and enforcement of compliance with the requirements of environment plans.

In the case of greenhouse gas injection and storage, it will initially be the responsible Commonwealth Minister who is the regulator under the Environment Regulations. This is because of the operational interconnection between environmental performance in relation to a greenhouse gas injection and storage project and the regulation of greenhouse gas injection and storage operations under the proposed regulations relating to greenhouse gas project site plans. The responsible Commonwealth Minister will approve the site plan in connection with the granting of a greenhouse gas injection licence, and the site plan will remain the primary regulatory mechanism throughout the life of a greenhouse gas injection and storage project. Because regulation of a greenhouse gas injection and storage project is largely concerned with the security of storage in the geological storage formation, and because Geoscience Australia is the technical agency with the expertise to provide assessments and recommendations to the regulator, the responsible Commonwealth Minister will retain the central regulatory role in the initial stages of development of an offshore greenhouse gas injection and storage industry. As regulatory practice develops, however, it is expected that the responsible Commonwealth Minister will devolve at least some regulatory responsibilities onto NOPSEMA, either by delegation of functions and powers or by the naming of NOPSEMA as the regulator under regulations, including the Environment Regulations.

Even before this occurs, the responsible Commonwealth Minister will be able to call upon NOPSEMA, pursuant to its function in new paragraph 646(go) to provide assessments, analysis, reports, advice and recommendations to the responsible Commonwealth Minister or delegate in relation to the Minister's functions and powers with respect to greenhouse gas injection and storage operations.

Conferral of functions on NOPSEMA by States or Northern Territory in designated coastal waters

Paragraphs 646(b), (gb), (gi) and (gj) enable the States and Northern Territory to confer OHS, structural integrity and environmental management functions, respectively, on NOPSEMA in designated coastal waters. In order to safeguard the ability of NOPSEMA to manage its regulatory practices efficiently and effectively, some 'bundling' requirements have been imposed in relation to the conferral of functions. Most importantly, a State or Territory can only confer OHS functions if it also confers the functions in relation to structural integrity of facilities, wells and well-related equipment. Schedule 3 to the Commonwealth Act imposes on OHS duty of care on the titleholder in relation to wells and well-related equipment. It will not be possible for NOPSEMA effectively to monitor compliance by a titleholder with this duty of care unless NOPSEMA is also the regulator under State/Territory regulations corresponding to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, which are the Commonwealth regulations providing for management of wells and well operations.

Clause notes

Item 399 omits the words “The Safety Authority” and substitutes the term “NOPSEMA”. The heading to section 646 is also amended to reflect the name change.

Item 400 – Paragraph 646(ga), (gb), (gc), (gd) and (gf)

This item omits the words “non-OHS”. Those words were required in the context of the amendments made by the *Offshore Petroleum and Greenhouse Gas Storage (Miscellaneous Measures) Act 2010*, but they are no longer of any significance. See above for an explanation of the relationship between the functions of NOPSEMA. See also item 5 of Part 1.

Item 401 – After paragraph 646(gf)

Item 401 adds a range of new functions to the list of NOPSEMA’s functions in section 646.

New paragraphs 646(gg) and (gh) provide that NOPSEMA has the functions conferred by this Act and the regulations in relation to environmental management of petroleum and greenhouse gas operations, respectively, in Commonwealth waters.

New paragraphs 646(gi) and (gj) provide that NOPSEMA has the functions conferred on it by a State or NT Petroleum (Submerged Lands) Act and regulations in relation to environmental management of petroleum and greenhouse gas operations, respectively, in the relevant State or NT designated coastal waters. Where a State or the NT confers environmental management functions on NOPSEMA under either of these paragraphs, it is expected that the State or NT will also confer the ‘ancillary’ functions conferred by the Commonwealth Act on NOPSEMA by paragraphs (gk) to (go) of section 646. This has been the practice of States and the NT in the past when they have conferred functions on NOPSA.

New paragraphs (gk) to (go) confer the same ‘ancillary’ functions in relation to environmental management as have already been conferred in relation to OHS and structural integrity. Paragraph (gk) in relation to monitoring and enforcement and paragraph (gl) in relation to investigations are confined to operations in Commonwealth waters. The functions in paragraphs (gn) and (go) are not so confined.

New paragraph (gp) confers the function of providing information, assessments, analysis, reports, advice and recommendations to the responsible Commonwealth Minister in relation to the Minister’s functions and powers in relation to greenhouse gas operations.

Paragraph (gq) confers an important new function on NOPSEMA. The paragraph provides that NOPSEMA has the function of compliance monitoring and enforcement in relation to all obligations of persons under the Act and regulations, except for the obligations in respect of which NOPSEMA already has those functions under the preceding paragraphs of section 646. This function extends beyond NOPSEMA’s own range of regulatory functions under the Act and regulations. It extends for

example to monitoring of compliance with conditions of titles or with field development plans. While the Titles Administrator will have the principal role in these areas, the Titles Administrator's monitoring will mostly be by audits of documents lodged by a titleholder under requirements imposed by the Act or regulations. The conferral of this function on NOPSEMA will improve the comprehensiveness of the monitoring and enforcement strategies available to both regulators under the Act. In particular, NOPSEMA will employ, appoint and deploy petroleum and greenhouse gas project inspectors, who have a range of powers available to them under the information-gathering powers in Division 3 of Part 7.1.

Paragraph (gr) makes it a function of NOPSEMA to cooperate with the Titles Administrator in matters relating to the administration and enforcement of this Act and the regulations. See the Outline in relation to the purpose of this paragraph.

Item 402 – Paragraph 646(h)

Item 402 repeals paragraph 646(h) and replaces it with an updated requirement to cooperate with Commonwealth, State and NT agencies and authorities having functions related to petroleum and greenhouse gas operations in Commonwealth waters and in State and Northern Territory designated coastal waters.

This item also inserts paragraph 646(i), which provides that NOPSEMA has such other functions as are conferred on it by the Act or the regulations. This includes, importantly, NOPSEMA's powers to give directions under the Act in relation to petroleum operations.

The item also inserts paragraph 646(j), the function to do anything incidental to or conducive to the performance of any of the above functions. In combination with the function in paragraph 646(i), this is the source of NOPSEMA's function of regulating 'day-to-day' operations of petroleum titleholders. NOPSEMA's powers to give directions under Parts 6.2 and 6.4 Division 1 are comprehensive, relating to all aspects of petroleum operations under the Act. Under these combined functions, NOPSEMA will be able, in circumstances where it considers it necessary, to keep under review the possible need to give a direction.

Item 403 – After section 646

Item 403 inserts new section 646A, which imposes a 'bundling' requirement on the conferral of functions on NOPSEMA by a State or Northern Territory Petroleum (Submerged Lands) Act. Section 646A provides that a State or Territory cannot confer any function on NOPSEMA that is mentioned in section 646(b), (gb), (gi) or (gj) ('a state functions provision') – ie OHS, structural integrity or environmental management, unless OHS and structural integrity are both conferred, and the State or Territory also applies provisions equivalent to Schedule 3 to the Commonwealth Act and regulations equivalent to the *Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009* and Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*. These last-mentioned regulations are the Commonwealth regulations providing for management of integrity of wells and well operations.

The reason why this ‘bundling’ requirement is applied is that an important part of the OHS regime is the titleholder duty of care in relation to wells in Schedule 3 to the Commonwealth Act. NOPSEMA will be unable to monitor and enforce compliance with that duty of care effectively unless it is also the regulator of integrity of wells and well operations. In addition, given the substantial overlap between the OHS and structural integrity functions, it is essential for the effective and efficient management of NOPSEMA’s regulatory processes that it be the regulator of both aspects of offshore operations.

The bundling requirement in relation to OHS and structural integrity applies only to petroleum operations. There is no requirement that a State or the Territory also confer greenhouse gas functions and powers – see paragraphs (a) and (b) of subsection 646A(3).

Section 646A also provides that if a State or Territory Petroleum (Submerged Lands) Act confers the environmental management functions mentioned in paragraph 646(gi) or (gj), there must also be regulations substantially corresponding to the petroleum or greenhouse gas provisions (as the case may be) of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*

These provisions must substantially correspond to the equivalent Commonwealth provisions, either as the Commonwealth provisions are in force at the time of the commencement of section 646A or as they are in force at any later time. This is to ensure that NOPSEMA has a coherent set of provisions to administer, monitor and enforce in both Commonwealth waters and designated coastal waters. The requirement does, however, take account of the inevitable lag in amending State or Territory Acts and regulations to update them to the Commonwealth model.

The requirements of this section do not begin to apply until 12 months after the commencement of the section. This means that, provided the States and the Northern Territory ensure that the OHS functions and powers that they currently confer on NOPSA under their Petroleum (Submerged Lands) Acts become functions and powers of NOPSEMA at the commencement day, they will then have 12 months in which to ensure that such functions and powers as they wish to confer on NOPSEMA under their Petroleum (Submerged Lands) Acts are conferred in the manner required by section 650A.

Item 404 – Subsection 647(1)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 405 – Subsection 647(2)

This item omits the words “the Safety Authority’s” and substitutes the word “NOPSEMA’s”.

Items 406 to 408 – Subsection 647(4); Subsection 647(5); Subsection 648(1)

These items omit the words “the Safety Authority” and substitute the term “NOPSEMA”. The heading to section 648 is also amended to reflect the name change.

Item 409 – Subsection 648(2)

This item omits the words “the Safety Authority’s” and substitutes the word “NOPSEMA’s”.

Items 410 – Section 648

This item omits the words “the Safety Authority” and substitute the term “NOPSEMA”.

Item 411 – Subsection 649(1)

This item removes the subsection division.

Item 412 – Subsection 649(1)

This item omits the words “the Safety Authority” and substitute the term “NOPSEMA”.

Item 413 – Section 650

Item 413 repeals section 650 and replaces it with a new section.

New section 650 provides for the conferral of additional functions and powers on NOPSEMA in specified circumstances.

Subsection 650(1) enables NOPSEMA to provide regulatory services under a contract entered into by NOPSEMA with a State or the Northern Territory, or an agency or authority of a State or the Northern Territory, in relation to petroleum operations either onshore or offshore. Where the services relate to a place within the limits of a State, the services must relate to activities of a ‘constitutional corporation’ or to structures etc that are owned or controlled, or that are being constructed, operated or decommissioned, by a ‘constitutional corporation’. This limitation ensures that onshore activities of NOPSEMA are within the legislative power of the Commonwealth under section 51(xx) of the Constitution (the corporations power). The contract must be approved in writing by the responsible Commonwealth Minister.

Subsection 650(2) enables a State or the Northern Territory to confer regulatory (petroleum) functions and powers on NOPSEMA by a State or Northern Territory Act in ‘eligible coastal waters’. These are waters landward of the (3-mile) territorial sea baseline that are external to the State. Only Western Australia has any offshore petroleum activity in waters in this category. Western Australia is able to confer functions and powers on NOPSEMA that substantially correspond to functions and

powers conferred by the Commonwealth Act. There must be an agreement between the responsible Commonwealth Minister and the responsible State Minister.

Subsection 650(3) enables NOPSEMA to provide petroleum regulatory services under a contract entered into by NOPSEMA with the government of a foreign country or the government of a part of a foreign country, or agency or authority of such a country or part of a country. The contract must be approved in writing by the responsible Commonwealth Minister, after having consulted with the 'Foreign Affairs Minister' (as defined in subsection 650(7)).

Subsection 650(5) provides that NOPSEMA is not authorised to provide a service under a contract entered into under subsection (1) or (3) if to do so would impede NOPSEMA's capacity to perform its other functions. It may be that difficulties in recruiting qualified and experienced staff, or the time taken to bring staff to an adequate level of training within NOPSEMA, makes it impracticable for NOPSEMA to take on contract work at a particular time.

Subsection 650(6) provides that specified governance provisions do not apply to the performance by NOPSEMA of contract services under subsections 650(1) or (3) or to functions or powers conferred by a State or Territory law under subsection 650(2). In particular, the responsible Commonwealth Minister does not have power to give directions to NOPSEMA, or to give NOPSEMA policy principles, with respect to those operations.

Item 414 – Section 651

This item repeals the section. NOGSAC does not exist any more and there is no successor body.

Items 415 and 416 – Subsection 652(1); Subsections 652(2) and (3)

These items omit the words “the Safety Authority”, including in the heading to section 652, and substitute the term “NOPSEMA”.

Item 417 – Division 3 of Part 6.9 (heading)

This item repeals the existing heading to this Division, and substitutes a new heading to Division 3 of Part 6.9.

Item 418 – Section 653

This item continues the existence of the National Offshore Petroleum Safety Authority Board as the National Offshore Petroleum Safety and Environmental Management Authority Board.

Item 419 – Paragraph 654(1)(a)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 420 – Subparagraph 654(a)(b)(iv)

This item updates the name of “the Ministerial Council on Mineral and Petroleum Resources” to “the Standing Council on Energy and Resources”.

Items 421 and 422 – Paragraph 654(1)(b)

Items 421 and 422 expand paragraph 654(1)(b) in relation to the Board’s functions so that they correspond to the functions of NOPSEMA with respect to structural integrity of facilities, wells and well-related equipment and also petroleum environmental management.

Item 423 – Subparagraph 654(1)(b)(vi)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Items 424 and 425 – Paragraph 654(1)(c)

Items 424 and 425 expand paragraph 654(1)(c) in relation to the Board’s functions so that they extend to the function of NOPSEMA with respect to greenhouse gas environmental management.

Item 426 – Subparagraph 654(1)(c)(vi)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Items 427 and 428 – Paragraph 654(3)(c)

These items update the name of “the Ministerial Council on Mineral and Petroleum Resources” to “the Standing Council on Energy and Resources”.

Item 429 – Division 4 of Part 6.9 (heading)

This item repeals the existing heading to this Division, and substitutes a new heading to Division 4 of Part 6.9.

Item 430 – Subsection 665(1)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 431 – At the end of subsection 665(1)

This item adds a note the end of this subsection to refer to section 25B of the *Acts Interpretation Act 1901*. Section 25B provides that, where an Act alters the name of an office, such as the CEO of the Safety Authority, then, unless the contrary intention appears, the office continues in existence under the new name so that its identity is not affected. Because, at the time when NOPSEMA’s operations commence, the current

CEO will not have been recommended for appointment by the Standing Council on Energy and Resources, there is a transitional provision in item 552 that confirms the continuity of the appointment. (The appointment of the current CEO was recommended by the Ministerial Council on Mineral and Petroleum Resources.)

Item 432 – Subsection 665(3)

This item updates the reference to “the Ministerial Council on Mineral and Petroleum Resources” to “the Standing Council on Energy and Resources”.

Item 433 – Subsection 666(1)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 434 – Subsection 666(2)

This item omits the words “the Safety Authority”, where it first occurs in the subsection, and substitutes the term “NOPSEMA”.

Item 435 – Subsection 666(2)

This item omits the words “the Safety Authority’s” and substitutes the word “NOPSEMA’s”.

Item 436 – Subsection 666(2)

This item omits the words “the Safety Authority”, on the second occasion they occur in the subsection, and substitutes the term “NOPSEMA”.

Item 437 – Section 667

This item omits the words “the Safety Authority’s”, wherever occurring, and substitutes the word “NOPSEMA’s”.

Item 438 – Paragraph 667(3)(b)

This item amends paragraph 667(3)(b) by inserting a requirement that reports, documents and information be ‘reasonably’ required by the Chair of the Board. This will provide for a dialogue between the CEO and the Chair of the Board as to the level of NOPSEMA’s resources that are to be devoted to the provision of such material to the Board.

Item 439 to 441 – Paragraph 675(1)(a); Subsection 676(1); Subsection 677(1)

These items omit the words “the Safety Authority” and substitute the term “NOPSEMA”.

Item 442 – Subsection 667(3)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Items 443 and 444 – Subsection 667(3); Subsection 678(1)

These items omit the words “the Safety Authority” and substitute the term “NOPSEMA”.

Item 445 – Paragraphs 678(4)(a) and (b)

This item omits the words “the Safety Authority’s” and substitutes the word “NOPSEMA’s”.

Item 446 – Paragraph 678(4)(c)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 447 – After paragraph 678(4)(e)

This item updates subsection 678(4)(e) to include analysis of risk factors relating to structural integrity of facilities, wells and well-related equipment and petroleum and greenhouse gas environmental management.

Item 448 – Subsection 679(3)

This item amends subsection 679(3) so that it refers expressly to occupational health and safety in respect of particular petroleum or greenhouse gas operations. Previously, it was not necessary to refer expressly to OHS, as NOPSA had only OHS functions.

Items 449 and 450 – Subsections 679(6) and (7); Paragraph 680(2)(a)

These items omit the words “the Safety Authority” and substitute the term “NOPSEMA”.

Item 451 – Subsection 681(1)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 452 – Paragraph 681(3)(c)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 453 – Division 7 of Part 6.9 (heading)

This item repeals the existing heading to this Division, and substitutes a new heading to Division 7 of Part 6.9.

Item 454 – Section 682

This item continues in existence the National Offshore Petroleum Safety Account as the National Offshore Petroleum Safety and Environmental Management Authority Special Account. The National Offshore Petroleum Safety and Environmental Management Authority Special Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

Item 455 – Paragraphs 683(a) to (db)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 456 – After paragraph 683(db)

This item inserts a new paragraph 683(dc), which enables amounts paid to NOPSEMA on behalf of the Commonwealth by way of environment plan levy imposed by the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*, and by way of late payment penalty under subsection 688C(2) of the OPGGS Act, to be credited to the National Offshore Petroleum Safety and Environmental Management Authority Special Account.

Item 457 – Paragraph 683(e)

This item repeals the paragraph, and substitutes new paragraphs 683(e) and (ea) which enable amounts equal to amounts paid to NOPSEMA, on behalf of the Commonwealth, under a contract referred to in subsection 650(1) or (3), or an agreement referred to in subsection 650(2), of the OPGGS Act to be credited to the National Offshore Petroleum Safety and Environmental Management Authority Special Account.

Items 458 to 460 – Paragraphs 683(f) and (g); Paragraph 684(1)(a); Paragraph 684(1)(b)

These items omit the words “the Safety Authority” and substitute the term “NOPSEMA”.

Item 461 – Paragraph 684(1)(c)

Item 398 deletes paragraph 684(1)(c), as it is unnecessary. The payments will now be authorised under paragraph 684(1)(a).

Items 462 and 463 – Subsection 684(2); Section 685

These items omit the words “the Safety Authority”, wherever occurring and including in the heading to section 685, and substitutes the term “NOPSEMA”.

Item 464 – Subsection 686(4)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 465 – Section 686

This item omits the words “the Safety Authority”, wherever occurring, and substitutes the term “NOPSEMA”.

Item 466 – Subsection 687(6)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 467 – Section 687

This item omits the words “the Safety Authority”, wherever occurring, and substitutes the term “NOPSEMA”.

Item 468 – Subsection 688(4)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 469 – Section 688

This item omits the words “the Safety Authority”, wherever occurring, and substitutes the term “NOPSEMA”.

Item 470 – Subsection 688A(4)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 471 – Section 688A

This item omits the words “the Safety Authority”, wherever occurring, and substitutes the term “NOPSEMA”.

Item 472 – Subsection 688B(4)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 473 – Section 688B

This item omits the words “the Safety Authority”, wherever occurring, and substitutes the term “NOPSEMA”.

Item 474 – After section 688B

This item inserts a new section 688C, which provides for the collection of the environment plan levy imposed by the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*.

The environment plan levy will become due and payable at a time specified in the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004*. Each levy amount, and each amount in respect of any late payment penalties, is a debt due to NOPSEMA on behalf of the Commonwealth. These amounts are recoverable by NOPSEMA, on behalf of the Commonwealth, in a court of competent jurisdiction.

In addition, section 688C provides for a late payment penalty to be payable by a person or persons where an environment plan levy remains wholly or partly unpaid after the date it becomes due and payable. If the levy is payable by a single person, that person will be liable to pay the late payment penalty. If the levy is payable jointly and severally by two or more persons, those persons are jointly and severally liable to pay the late payment penalty.

The penalty is not cost recovery or taxation, it is a penalty designed to ensure that levies are paid on time. Given the importance of NOPSEMA’s function in regulating environmental matters for the offshore oil and gas industry and the fact it is funded through levies, it is critical that it is adequately resourced through the timely payment of levies by industry.

Item 475 – Subsection 689(1)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 476 – Paragraph 690(1)(a)

This item omits the words “the Safety Authority’s” and substitutes the word “NOPSEMA’s”. The heading to subsection 690(1) is also amended to reflect the name change to NOPSEMA.

Item 477 – Subparagraphs 690(1)(b)(iii) and (3)(b)(iii)

This item updates the name of “the Ministerial Council on Mineral and Petroleum Resources” to “the Standing Council on Energy and Resources”.

Item 478 – Subsection 691(1)

This item omits the words “the Safety Authority”, wherever occurring and including in the heading to section 691, and substitutes the term “NOPSEMA”.

Item 479 – Paragraph 691(1)(a)

This item omits the words “The Safety Authority’s”, wherever occurring, and substitutes the word “NOPSEMA’s”.

Item 480 – Subsection 691(2)

This item omits the words “the Safety Authority”, wherever occurring, and substitutes the term “NOPSEMA”.

Item 481 – Paragraph 691(2)(a)

This item omits the words “the Safety Authority’s”, wherever occurring, and substitutes the word “NOPSEMA’s”.

Item 482 – Subsection 691(3)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 483 – Subsections 692(1) and (3)

This item omits the words “the Safety Authority”, including in the heading to section 692, and substitutes the term “NOPSEMA”.

Item 484 – Subsection 692(3)

This item omits the words “in Safety Authority” and substitutes the words “in NOPSEMA”.

Item 485 – Subsection 692(4)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 486 – Subsections 692(4) and (7)

This item omits the words “the Safety Authority’s” and substitutes the word “NOPSEMA’s”.

Item 487 – Subsection 692(8)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 488 – Subsection 692(12)

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Item 489 – Section 695

Item 426 deletes existing section 695 and replaces it with a new section. There are two substantive changes.

The first is that it updates the content requirements to include the new functions of NOPSEMA in relation to structural integrity and environmental management.

The other change is to the timing of reviews. The first review is to relate to the 3-year period beginning at the commencement date, when NOPSEMA will commence operations. It is the timing of the subsequent reviews that has been changed, by increasing the review period to 5 years. This has been done because experience with NOPSAs periodic reviews has shown that, where a review report recommends changes to regulatory practices that necessitate changes to the Act or to regulations, the lengthy policy development process, involving as it does extensive consultation with State, Territory and industry stakeholders, followed by the time taken to get the legislative changes drafted and into force, mean that the previous review’s recommendations have scarcely been implemented, if indeed it has been possible to implement them, by the time the next review is due to be undertaken. The new review is therefore unable to assess the benefits of implementing the previous review’s recommendations. Five years seems a more realistic and therefore more cost-effective review period.

Item 490 – At the end of Division 9 of Part 6.9

Item 427 inserts a new section 695AA that replaces section 73. That section referred to the Designated Authority for the Eastern Greater Sunrise offshore area, which is abolished by this Bill. A number of the functions that were previously exercised by the Designated Authority for the Eastern Greater Sunrise Area are transferred to NOPSEMA.

Item 491 – At the end of Chapter 6

This item adds a new Part 6.10, titled “National Offshore Petroleum Titles Administrator”, which provides for the establishment, functions and powers of NOPTA.

Division 1 provides a simplified outline of Part 6.10.

Section 695AB

The main functions of the Titles Administrator conferred by Part 6.10 are: assisting and advising the Joint Authority and the responsible Commonwealth Minister, and keeping the Register of titles.

In addition, the Titles Administrator will take over the administrative functions of the Designated Authorities in relation to decisions of the Joint Authority. The Titles Administrator will keep records of the decisions of the Joint Authorities (section 61), sign documents on behalf of the Joint Authority (section 62), be the point of communication with the Joint Authority (section 63) and execute or issue instruments (such as titles) and give notices on behalf of the Joint Authority (section 65).

The Titles Administrator will also have data management functions under Part 7.1.

Division 2—National Offshore Petroleum Titles Administrator

Section 695A

Section 695A establishes the Titles Administrator. The Titles Administrator is to be an SES employee in the Commonwealth Department of Resources Energy and Tourism who is to be specified in an instrument by the Secretary of the Department.

Subsection 695A(3) is merely declaratory of the law and included to assist readers, as the instruments are not legislative instruments within the meaning of section 5 of the *Legislative Instruments Act 2003*.

Section 695B Functions of the Titles Administrator

Section 695B provides that the Titles Administrator has certain functions. Under paragraphs (a), (b), (c) and (d), the Titles Administrator has the functions of providing information, assessments, analysis, reports, advice and recommendations to the responsible Commonwealth Minister as a member of the Joint Authority (paragraph (a)), to the responsible State or Northern Territory Minister as a member of the Joint Authority (paragraph (b)), to the responsible Commonwealth Minister in respect of his or her functions or powers (other than as a member of the Joint Authority) (paragraph (c)) and to the State and Northern Territory ‘Petroleum Ministers’ in relation to their activities under their Petroleum (Submerged Lands) Acts. (This last function in paragraph (d) would only be performed at the request of the State or Territory ‘Petroleum Minister’, under a service level agreement.) In addition, paragraph 695B(h) provides that the Titles Administrator has the functions conferred on the Titles Administrator by or under a State or Territory Petroleum (Submerged Lands) Act. Where the Titles Administrator performs the function in paragraph (d) or (h), the Act authorises entry into a service level agreement providing for (among other things) payments to the Titles Administrator. These payments are to be credited to the NOPTA Special Account under paragraph 695J(c).

The Titles Administrator has the function under paragraph 695B(e) of cooperating with NOPSEMA in matters relating to the administration and enforcement of the Act and the regulations. NOPSEMA and the Titles Administrator will each have an express function of cooperating with the other in matters relating to the administration and enforcement of the Act and regulations. While it is an important aspect of the new regime that the two bodies will act entirely independently of each other in their decision-making and regulatory practices, a level of administrative coordination between the agencies will assist in minimising any potential impact on the industry of having offshore operations regulated by two different entities

Under paragraph 695B(g) the Titles Administrator has such other functions as are conferred on the Titles Administrator by the Act or the regulations. Under paragraph 695B(i) the Titles Administrator may do anything incidental to or conducive to the performance of any of the above functions.

Section 695C Acting Titles Administrator

Section 695C contains standard provisions for the appointment of an acting Titles Administrator.

Section 695D Delegation by the Titles Administrator

Section 695D provides for the Titles Administrator to delegate functions and powers to a person who is:

- (a) an SES employee or acting SES employee in the Department; or
- (b) an APS employee at Executive Level 2 or equivalent in the Department; or
- (c) an employee of a State or the Northern Territory.

The ability to delegate to an APS employee at EL2 level is necessary because the Titles Administrator will be the only SES-level employee within the Titles Administrator Branch of the Department.

Subsection 695D(2) enables the Titles Administrator to give written directions to a delegate.

Sections 695E and 695F

Sections 695E and 695F provide that the Titles Administrator is to be assisted by APS staff in the Department who are made available by the Secretary and, with the written approval of the Secretary, by officers and employees of APS Agencies or authorities of the Commonwealth or by officers and employees of a State or Territory or of a State or Territory authority.

Division 3—National Offshore Petroleum Titles Administrator Special Account

Section 695H National Offshore Petroleum Titles Administrator Special Account

Section 695H establishes the National Offshore Petroleum Titles Administrator Special Account. It is a Special Account for the purposes of the Financial Management and Accountability Act 1997.

Section 695J Credits to the Account

The amounts that may be credited to the Account are:

- (a) amounts equal to fees for services paid under regulations made for the purposes of subsection 695L(1);

- (b) amounts equal to amounts of annual titles administration levy and late payment fees;
- (c) amounts equal to any other amounts paid to the Titles Administrator, on behalf of the Commonwealth, by a State or the Northern Territory; and
- (d) amounts equal to any other amount paid to the Titles Administrator on behalf of the Commonwealth.

Section 695K Purposes of the Account

Section 695K sets out the amounts that may be debited to the Account. These are the costs, expenses and other obligations incurred in performing the Titles Administrator's functions and the exercise of the Titles Administrator's powers.

Division 4—Other financial matters

Section 695L Fees

Section 695L provides for the charging of fees for services as specified in the regulations for specified services of the Titles Administrator. These are cost-recovery fees such as application fees and must not be such as to amount to taxation.

Section 695M Annual titles administration levy

This section provides for the collection of the annual titles administration levy imposed by the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*.

The annual titles administration levy for the first year of the term of permit, lease or licence will become due and payable at the end of 30 days after the day on which the term begins. The levy for a later year of the term is due and payable at the end of 30 days after the anniversary of the day on which the first year of the term began. Each levy amount, and each amount in respect of any late payment penalties, is a debt due to NOPTA on behalf of the Commonwealth. These amounts are recoverable by NOPTA, on behalf of the Commonwealth, in a court of competent jurisdiction.

In addition, section 695M provides for a late payment penalty to be payable by a person or persons where an annual titles administration levy remains wholly or partly unpaid after the date it becomes due and payable.

The penalty is not cost recovery or taxation, it is a penalty designed to ensure that levies are paid on time. Given the importance of NOPSTA's titles administration functions and the fact it is funded through levies, it is critical that it is adequately resourced through the timely payment of levies by industry.

Section 695N Annual Report

NOPTA must prepare a report on its activities during the year as soon as practicable after the end of each financial year. The report is given to the responsible Commonwealth Minister for presentation to the Parliament.

A copy of the report must also be given to the Petroleum Minister for each State and the NT, the Greenhouse Gas Minister for each State and the NT, and the Standing Council on Energy and Resources.

Section 695P Reviews of activities of Titles Administrator

This section provides for reviews of the activities of NOPTA, and for preparation of a report of the review. Copies of the report are to table in both Houses of Parliament. The first review will take place after three years from the commencement of NOPTA, and subsequent reviews will relate to subsequent five year periods. Reviews are to be completed within 6 months of the end of each period, or a longer period allowed by the responsible Commonwealth Minister.

Section 695Q Judicial notice of signature of Titles Administrator

This clause requires a court to take judicial notice of signatures and facts relating to being a person who is or being a delegate of a person who is the Titles Administrator. Judicial notice is a finding by a court of the existence of a fact which has not been established by evidence. Once judicial notice is taken of a matter, it is prima facie proved and evidence is not required to prove it. However, evidence may be led to rebut the fact noticed or the consequences of it.

A court to which this clause refers could be a Commonwealth, State or Territory court. Subclause (2) extends the provisions of this clause to persons authorised to receive evidence. This would include, for example, a tribunal or arbitrator who is authorised to receive evidence.

Section 695R Communications with responsible Commonwealth Minister

Section 695R provides that all communications to or by the responsible Commonwealth Minister under or for the purposes of the Act or the regulations are to be made through the Titles Administrator, except for communications to or by the responsible Commonwealth Minister in his or her capacity as, or as a member of, the Joint Authority for an offshore area. Communications to or by a Joint Authority for an offshore area are covered by section 63, and are also made through the Titles Administrator.

Part 7.1—Data management and gathering of information

Division 2—Data management

Item 492 – Section 696

This item omits the term “Designated Authority”, wherever occurring, and replaces it with the term “Titles Administrator”.

Item 493 –Subsections 697(2) and (4)

Section 697 is a direction-giving power under which the Designated Authority may give directions to a person to keep accounts, records or other documents in connection with petroleum operations, to collect and retain cores, cuttings or samples, and to give them to the Designated Authority or other person specified in the notice.

Item 493 omits the term “Designated Authority”, wherever occurring and including in the heading to subsection 697(2), and substitutes the term “Titles Administrator”.

Item 494 – Subsection 697(4)

This item omits the words “Designated Authority’s” and substitutes the words “Titles Administrator’s”.

Item 495 – Paragraph 698(1)(c)

Under section 698, the regulations may provide for the keeping of accounts, records and other documents in connection with petroleum operations and the collection and retention of cores, cuttings or samples and the giving of them to the Designated Authority. This item omits the term “Designated Authority” and substitutes the term “Titles Administrator”. Regulations made under section 698 are in Part 7 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*. Item 495 transfers this part of the data management function from the Designated Authorities to the Titles Administrator.

Division 3—Information-gathering powers

Item 496 – Subsection 699(1)

As amended by this item provides that where the Titles Administrator or petroleum project inspector reasonably believes that a person has information, a document or the ability to provide evidence that relates to petroleum operations, the Titles Administrator or the project inspector may require the provision of that information or that document and may require the person to appear before them to give any such evidence, or produce such document. The heading to section 699 is also updated to replace the reference to “Designated Authority” with “Titles Administrator”.

Items 496 to 501 in effect transfer these information-gathering powers from the Designated Authorities to the Titles Administrator.

These items omit the term “Designated Authority”, wherever occurring and including in the heading to section 704, and substitute the term “Titles Administrator”.

Item 502 – Paragraph 706(b)

This item omits the term “Designated Authority” and substitutes the term “Titles Administrator”.

Item 503 – At the end of Division 3 of Part 7.1

New section 707A provides that the Titles Administrator may give written directions to a petroleum project inspector as to the exercise of the inspector’s powers under this Division. This provision is necessary because petroleum project inspectors are appointed and deployed by NOPSEMA. When a project inspector is acting in furtherance of the Titles Administrator’s functions under this Division, however, the inspector is subject to direction by the Titles Administrator.

Subsection 707A(4) is merely declaratory of the law and included to assist readers, as the instruments are not legislative instruments within the meaning of section 5 of the *Legislative Instruments Act 2003*.

Item 504 – Section 708

This item omits the term “Designated Authority”, wherever occurring, and substitutes the term “Titles Administrator”, to require NOPTA to meet obligations previously required to be met by the DA under this section.

Item 505 – Subsection 709(1)

This item omits the reference in this subsection to “Designated Authority in connection with this Act”, and replaces it with “Titles Administrator in connection with Chapter 2 or this Chapter”. Section 709 therefore applies to a document received or issued by NOPTA in connection with Chapter 2 or Chapter 7 of the OPGGS Act.

The heading to section 709 is also amended to update the reference to “Designated Authority” to “Titles Administrator”.

Item 506 – Subsections 709(2) and (3)

This item omits the term “Designated Authority” and substitutes the term “Titles Administrator”.

Item 507 – Section 710

This item updates the simplified outline of Part 7.3 to include references to information contained in certain documents given to NOPTA or the DA, and to petroleum mining samples given to NOPTA or the DA.

Item 508 – Section 711 (before paragraph (a) of the definition of *applicable document*)

This item amends the definition of “applicable document” by inserting new paragraphs before paragraph (a) that will become the new list of categories of ‘applicable document’ on the commencement of these amendments. The present list will then be converted by item 509 into a transitional provision applying to documents received pre-commencement.

The new list of applicable documents comprises

- (a) an application made to the Titles Administrator under Chapter 2;
- (b) a document accompanying such an application; or
- (c) a report, return or other document relating to a block and given to the Titles Administrator under Chapter 2 or Chapter 7 of the Act, or regulations made for the purposes of section 698 of the Act.

Item 509 – Section 711 (paragraphs (a) and (c) of the definition of *applicable document*)

This item amends the definition of “applicable document” to provide that applications made to the DA, or specified reports, returns or other documents given to the DA, on or after 7 March 2000 and before the commencement of Part 6.10 are within the definition.

Item 510 – Section 711 (definition of *petroleum mining sample*)

This item amends the definition of “petroleum mining sample” to include cores, cuttings and samples, or portions of cores, cuttings or samples, that have been given to the Titles Administrator at any time under regulations made for the purposes of section 698, in addition to cores, cuttings and samples, or portions of cores, cuttings or samples, that have been given to the DA at any time before the commencement of Part 6.10.

Item 511 – Subdivision A of Division 2 of Part 7.3

This item repeals the existing heading to this Division, and substitutes a new heading to Division 2 of Part 7.3.

Items 512 to 516 – Section 712; Section 713; Section 714; Paragraph 718(2)(a); Section 720

These items omit the term “Designated Authority”, wherever occurring and including in the headings to sections 712, 713 and 714, and substitute the term “Titles Administrator”.

Chapter 8—Information relating to greenhouse gas

The Bill transfers the responsible Commonwealth Minister’s powers in relation to data management and gathering of information with respect to greenhouse gas operations to the Titles Administrator.

Items 517 and 518 – Section 722; Subsection 723(2)

These items omit the term “responsible Commonwealth Minister”, wherever occurring and including in the heading to subsection 723(2), and substitute the term “Titles Administrator”. This transfers to the Titles Administrator the responsible Commonwealth Minister’s power to give directions with respect to the keeping of accounts, records and other documents, the collection and retention of cores, cuttings and samples and the giving of them to the Titles Administrator.

Item 519 – After subsection 723(3A)

Item 454 inserts a new subsection 723(3A) that gives the responsible Commonwealth Minister power to give directions about the exercise of the Titles Administrator’s power to give directions under subsection 723(2).

Item 520 – At the end of section 723

Subsection 723(6) is merely declaratory of the law and included to assist readers, as the instruments are not legislative instruments within the meaning of section 5 of the *Legislative Instruments Act 2003*.

Items 521 to 528 – Paragraph 724(1)(c); Paragraph 725(1)(a); Subsection 725(2); Section 727; Section 729; Section 730; Paragraph 731(a); Paragraph 732(b)

These items omit the term “responsible Commonwealth Minister”, wherever occurring and including in the headings to sections 725 and 730, and substitutes the term “Titles Administrator”.

Item 529 – At the end of Division 3 of Part 8.1

New section 733A provides that the Titles Administrator may give directions to a greenhouse gas project inspector as to the exercise of the inspector’s powers under this Division. This power is necessary because it is NOPSEMA that appoints and deploys greenhouse gas project inspectors. When a greenhouse gas project inspector is acting in furtherance of the Titles Administrator’s functions under this Division, the project inspector is subject to direction by the Titles Administrator.

Subsection 733A(4) is merely declaratory of the law and included to assist readers, as the instruments are not legislative instruments within the meaning of section 5 of the *Legislative Instruments Act 2003*.

Item 530 – Section 734

This item omits the term “responsible Commonwealth Minister”, wherever occurring, and substitutes the term “Titles Administrator”.

Item 531 – At the end of Part 8.2

New section 734A is necessary because the responsible Commonwealth Minister’s powers in relation to gathering of greenhouse gas information, documents and samples has been transferred from the responsible Commonwealth Minister to the Titles Administrator. The information etc may be required by the responsible Commonwealth Minister for the purposes of the exercise of the responsible Commonwealth Minister’s powers in relation to greenhouse gas operations.

Item 532 – Section 735

This item amends the simplified outline of Part 8.3 to include references to information contained in certain documents, and petroleum mining samples, given to the responsible Commonwealth Minister or NOPTA.

Item 533 – Section 736 (paragraph (a) of the definition of *applicable document*)

This item amends the definition of “applicable document” to include applications made to the responsible Commonwealth Minister under Chapter 3 of the OPGGS Act. The existing definition includes applications made to the responsible Commonwealth Minister under the OPGGS Act in its entirety; however this is no longer applicable following amendments made by this Bill.

Item 534 – Section 736 (paragraph (c) of the definition of *applicable document*)

This item repeals the existing paragraph (c) of the definition of “applicable document” and replaces it with new paragraphs (c), (d) and (e).

Item 535 – Section 736 (definition of *eligible sample*)

This item amends the definition of “eligible sample” to include cores, cuttings and samples, or portions of cores, cuttings or samples, that have been given to NOPTA at any time under regulations made for the purposes of section 724, in addition to cores, cuttings and samples, or portions of cores, cuttings or samples, that have been given to the responsible Commonwealth Minister at any time before the commencement of Part 6.10.

Once Part 6.10 commences, the regulations may make provisions for the giving to NOPTA or a specified person of cores, cuttings and samples, rather than to the responsible Commonwealth Minister. See item 421.

Item 536 – Subdivision A of Division 2 of Part 8.3 (heading)

This item repeals the existing heading to this Subdivision, and substitutes a new heading to Subdivision A of Division 2 of Part 8.3.

Items 537 to 540 – Section 738; Section 739; Section 740; Section 743

These items amend the sections to provide that the obligations, functions and powers in these sections apply to both the responsible Commonwealth Minister and NOPTA.

Item 541 – Part 9.1 (heading)

This item repeals the existing heading to this Part, and substitutes a new heading to Part 9.1.

Item 542 – Section 744

This item repeals the existing simplified outline of Part 9.1, and replaces it with a new simplified outline. Part 9.1 is amended to remove the ability to seek review by the Administrative Appeals Tribunal of decisions by the responsible Commonwealth Minister, or a delegate of the responsible Commonwealth Minister, as Joint Authority in relation to the offshore area of an external Territory. Decisions of a Joint Authority concerning the granting of titles and the imposition of title conditions are matters of high government policy, involving considerations of national economic policy as well as environmental and social policy. The decisions are also made on the basis of technical geological and geophysical data on advice from Geoscience Australia. These are not decisions that a administrative tribunal is equipped to make, particularly as requests for review would arise rarely so that there was no opportunity for members to acquire any expertise or experience in relation to such matters.

Item 543 – Section 745 (definition of *reviewable delegated decision*)

This item repeals the definition of “reviewable delegated decision”.

Item 544 – Section 745 (definition of *reviewable Ministerial decision*)

This item repeals the existing definition of “reviewable Ministerial decision” and replaces it with a new definition which limits review by the Administrative Appeals Tribunal (AAT) to decisions of the responsible Commonwealth Minister under:

- regulations made for the purposes of paragraph 738(2)(c) or 739(2)(c) of the OPGGS Act, relating to the release of greenhouse gas technical information, or
- clause 6, subclause 7(1), clause 8, or subclause 9(6) or (10), of Schedule 5 to the OPGGS Act, relating to the release of technical information given to the DA before 7 March 2000.

Item 545 – Section 745

This item inserts a new definition for “reviewable Titles Administrator decision”. A “reviewable Titles Administrator decision” is a decision made by NOPTA under specified regulations relating to the release of technical information.

Item 546 – Section 746

This item repeals the section, as the concept of a “reviewable delegated decision” is no longer applicable. See item 543.

Item 547 – At the end of Part 9.1

This item inserts a new section 747A, which provides that applications may be made to the AAT for review of a reviewable Titles Administrator decision. See item 545.

Item 548 – Paragraph 768(1)(d)

This item replaces the reference to “the Designated Authority” with a reference to “the Titles Administrator”, as a body to which section 768 applies.

Item 549 – Paragraphs 768(1)(e) and (f)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Item 550 – Paragraph 768(1)(j)

This item omits the term “Designated Authority” and substitutes the term “Titles Administrator”.

Item 551 – Paragraph 768(1)(k)

This item omits the words “the Safety Authority”, wherever occurring and substitutes the term “NOPSEMA”.

Item 552 – Subsection 768(2)

This item replaces the reference to “Designated Authority or the Safety Authority” with a reference to “Titles Administrator or NOPSEMA”.

Item 553 – Subsection 771(1) (cell at table item 1, column headed “A document required or permitted by this Act to be given to...”)

This item repeals the existing cell and replaces it with a new cell to include a reference to a person other than the responsible Commonwealth Minister, NOPTA, NOPSEMA or a corporation.

Item 554 – Subsection 771(1) (table item 2)

This item repeals the existing item 2, and replaces it with new items 2 and 2A to set out the approved methods of serving documents that the OPGGS Act requires or permits to be given to NOPTA or NOPSEMA.

Item 555 – Section 772

This item omits the words “the Designated Authority”, wherever occurring, and substitutes the words “the Titles Administrator”.

Item 556 – Subsection 774(2)

This item omits the words “the Designated Authority” and substitutes the words “the Titles Administrator and NOPSEMA”. Where there are two or more registered holders of a petroleum title, a nomination of one titleholder as the person to whom documents may be given must be provided, by joint written notice, to both NOPTA and NOPSEMA.

Item 557 – After subsection 774(3)

This item inserts a new subsection 774(3A) to provide that a joint written notice given to NOPTA and NOPSEMA that nominates one titleholder as the person to whom documents may be given must be in the form approved, in writing, by NOPTA and the CEO of NOPSEMA.

Item 558 – Paragraph 774(5)(b)

This item omits the words “the Designated Authority” and substitutes the words “the Titles Administrator and NOPSEMA”. A revocation of a nomination of one titleholder to be the person to whom documents may be given must be provided in writing to both NOPTA and NOPSEMA.

Item 559 – After subsection 774(5)

This item inserts a new subsection 774(5A) to provide that a joint written notice given to NOPTA and NOPSEMA that revokes a nomination of one titleholder as the person to whom documents may be given must be in the form jointly approved in writing by NOPTA and the CEO of NOPSEMA.

Items 560 and 561 – Subsection 775A(1); Section 775B

These items omit the term “Designated Authority”, wherever occurring, and substitute the term “Titles Administrator”.

Item 562 – Section 775C

This item omits the term “Designated Authority”, wherever occurring, and substitutes the term “responsible Commonwealth Minister”.

Item 563 – Before paragraph 778(1)(a)

This item inserts a new paragraph 778(1)(aa) to enable the responsible Commonwealth Minister to delegate any or all of his functions and powers under the OPGGS Act and the regulations to the CEO of NOPSEMA.

Item 564 – Paragraph 778(1)(a)

This item replaces the reference to “Secretary of the Department” with a reference to “Secretary”. See item 15 of Part 1, which inserts a definition of “Secretary” into section 7 of the OPGGS Act.

Item 565 – Subsection 778(3)

This item amends the subsection to remove the reference to the DA for an offshore area.

Item 566 – At the end of section 778

Item 566 inserts new subsections (4), (5) and (6) to the responsible Commonwealth Minister’s power of delegation. Subsection (4) provides that, if a function or power is delegated to the CEO of NOPSEMA, the CEO may sub-delegate the function or power to a member of staff of NOPSEMA. In performing a function or exercising a power, the sub-delegate must comply with any direction of the responsible Commonwealth Minister.

Item 567 – Paragraph 779(1)(c)

This item removes a reference to the “Designated Authority” and replaces it with references to “the Titles Administrator” and “NOPSEMA”.

Items 568 to 570 – Section 780D; Subsection 780F(1); Subparagraph 780F(3)(b)(i)

These items omit references to “Secretary of the Department”, wherever occurring, and replace them with references to “Secretary”. See item 13 of Part 1, which inserts a definition of “Secretary” into section 7 of the OPGGS Act.

Item 571 – Subparagraph 780F(3)(b)(ii)

This item omits the words “a Designated Authority” and substitutes the words “the Titles Administrator”.

Item 572 – Subparagraph 780F(3)(b)(iv)

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Items 573 and 574 – Subsection 780F(4); Subsection 780F(5)

These items omit references to “Secretary of the Department”, wherever occurring, and replace them with references to “Secretary”. See item 13 of Part 1, which inserts a definition of “Secretary” into section 7 of the OPGGS Act.

Items 575 and 576 – Clause 2 of Schedule 2; Subclauses 5(1) and (2) of Schedule 3

These items omit the words “the Safety Authority” and substitute the term “NOPSEMA”.

Item 577 – Subparagraphs 13A(1)(a)(ii), 13A(2)(a)(ii), 13B(1)(a)(ii) and 13B(2)(a)(ii)

The *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Act 2010* inserted clauses 13A and 13B into Schedule 3 to the OPGGS Act to impose an OHS duty of care on offshore petroleum and greenhouse gas titleholders in relation to wells and well-related equipment. However, clauses 13A and 13B inadvertently contain an error that has unduly narrowed the scope of these duties of care.

Paragraphs 13A(1)(a)(ii) and 13A(2)(a)(ii) provide that, if a well has been used in connection with operations authorised by a petroleum title, and the wellhead is situated in the title area, the titleholder must ensure the well is so designed, constructed, commissioned, altered, equipped, maintained, operated, suspended, abandoned, or closed-off that risks to the health and safety of persons at or near a facility from the well or anything in the well are as low as reasonably practicable. Clauses 13B(1)(a)(ii) and 13B(2)(a)(ii) include a similar requirement for greenhouse gas titleholders. However, a well may have no wellhead; for example, a well that is being drilled, or that is having well-related equipment installed may not yet have a wellhead installed, or a well that is suspended may not have a wellhead.

These amendments therefore replace the words “and the *wellhead* is situated in the title area of the current title” with “and the *well* is situated wholly or partly in the title area of the current title”. This clarifies that the titleholder OHS duty of care applies in relation to a well, whether or not the well has a wellhead, and therefore ensure that the duty of care operates as intended.

Items 578 to 584 – Clause 26 of Schedule 3; Subclause 30(1) of Schedule 3; Clause 32 of Schedule 3; Subparagraph 34(1)(a)(iii) of Schedule 3; Subclause 35(2) of Schedule 3; Subclause 39(1) of Schedule 3; Clause 44 of Schedule 3

These items omit the words “the Safety Authority”, wherever occurring, and substitute the term “NOPSEMA”.

Item 585 – Clause 46 of Schedule 3

This item omits the words “The Safety Authority”, wherever occurring, and substitutes the term “NOPSEMA”.

Item 586 – Clause 47 of Schedule 3

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Items 587 and 588 – Clause 48 of Schedule 3; Subclause 49(2) of Schedule 3

These items omit the words “The Safety Authority”, wherever occurring, and substitute the term “NOPSEMA”. The heading to subclause 49(2) of Schedule also updates the reference to “the Safety Authority” to “NOPSEMA”.

Item 589 – Subclause 49(2) of Schedule 3

This item omits the words “the Safety Authority” and substitutes the term “NOPSEMA”.

Items 590 to 594 – Paragraph 50(2)(d) of Schedule 3; Paragraph 51(2)(b) of Schedule 3; Subparagraph 52(3)(c)(i) of Schedule 3; Subparagraph 56(5)(c)(i) of Schedule 3; Subparagraph 57(5)(c)(i) of Schedule 3

These items omit the words “the Safety Authority’s” and substitute the term “NOPSEMA”.

Items 595 and 596 – Subclause 58(4) of Schedule 3; Subclause 65(1) of Schedule 3

These items omit the words “the Safety Authority”, wherever occurring, and substitute the term “NOPSEMA”.

Item 597 – Subclause 65(2) of Schedule 3

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Items 598 to 600 – Paragraph 65(2)(b) of Schedule 3; Clause 66 of Schedule 3; Subclauses 80(1) and (3) of Schedule 3

These items omit the words “the Safety Authority”, wherever occurring and including in the heading to subclause 80(1) of Schedule 3, and substitute the term “NOPSEMA”.

Item 601 – Subclause 80(4) of Schedule 3

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Items 602 to 605 – Subclause 80(5) of Schedule 3; Clause 82 of Schedule 3; Subclause 83(1) of Schedule 3; Clause 89 of Schedule 3

These items omit the words “the Safety Authority”, wherever occurring and including in the heading to subclause 89(1) of Schedule 3, and substitute the term “NOPSEMA”.

Item 606 – Subclause 89(5) of Schedule 3

This item omits the words “The Safety Authority” and substitutes the term “NOPSEMA”.

Items 607 to 612 – Subclauses 2(2), (4), (5) and (6) of Schedule 4; Subclause 2(7) of Schedule 4 (note 2); Clause 3 of Schedule 4; Subclauses 4(2), (4), (5) and (6) of Schedule 4; Subclause 4(7) of Schedule 4 (note 2); Subclause 7(1) of Schedule 4

These items replace all references to “Designated Authority” in Schedule 4 to the OPGGS Act and substitute “Titles Administrator”, to provide NOPTA with the functions previously exercisable by the DA under this Schedule. The Schedule is otherwise left unchanged.

Items 613 to 627 – Paragraph 4(a) of Schedule 5; Subclause 5(1) of Schedule 5; Subclause 5(2) of Schedule 5; Clause 6 of Schedule 5; Subclause 7(1) of Schedule 5; Paragraph 7(1)(e) of Schedule 5; Clause 8 of Schedule 5; Subclause 9(1) of Schedule 5; Paragraph 9(1)(b) of Schedule 5; Paragraph 9(1)(e) of Schedule 5; Subclauses 9(3) and (6) of Schedule 5; Subclause 9(7) of Schedule 5; Paragraph 9(8)(a) of Schedule 5; Subclause 9(12) of Schedule 5

These items replace references to “Designated Authority” or “Designated Authority for a State or the Northern Territory” in Schedule 5 to the OPGGS Act and substitute “Titles Administrator”, to provide NOPTA with the powers, functions and obligations previously exercisable by the DA under this Schedule. The Schedule is otherwise left unchanged.

References to “Designated Authority” in this Schedule in relation to information, applications or documents made or given to the DA before 7 March 2000, and to the time at which information is taken to have been given to the DA, are not changed as these criteria remain applicable to the relevant information, applications, and documents covered by this Schedule.

Part 2 – Amendments relating to the assessment of registration fees

Item 628 to 629 – Paragraph 512(1)(b); Subsection 517(1)

These items omit the term “Designated Authority” and replace it with the term “Titles Administrator”, to provide NOPTA with the powers previously exercisable by the DA under this subsection.

Item 630 – Subsection 517(1)

This item omits the words “the Register” and replaces them with the words “the relevant Register”. See item 170.

Item 631 – Subsections 517(2) to (4)

This item omits the term “Designated Authority”, wherever occurring and including in the heading to subsection 517(2), and replaces it with the term “Titles Administrator”.

Item 632 – Subsection 517(5)

This item removes a reference to “Designated Authority” and replaces it with a reference to “Titles Administrator”, including in the heading to this subsection.

Items 633 to 635 – Paragraph 561(1)(b); Subsection 556(1) to (4); Subsection 566(5)

These items remove references to “responsible Commonwealth Minister” and replace them with references to “Titles Administrator”, including in the headings to subsections 566(2) and (5), to provide NOPTA with the powers and functions previously exercisable by the responsible Commonwealth Minister under section 556.

Item 636 – Section 629

This item omits the term “Designated Authority”, wherever occurring and including in the heading to section 629, and replaces it with the term “Titles Administrator”.

Part 3 – Transitional provisions commencing on Royal Assent

Item 637 – Board members

This item ensures that the amendments in Schedule 2 to this Bill do not affect the continuity of appointments to the National Offshore Petroleum Safety Authority Board, which is re-named the National Offshore Petroleum Safety and Environmental Management Authority Board, subject to the power of the responsible Commonwealth Minister to terminate an appointment.

Item 638 – CEO

This item ensures that the amendments in Schedule 2 to this Bill do not affect the continuity of the appointment of the CEO of NOPSA, which is re-named NOPSEMA, subject to the power of the responsible Commonwealth Minister to terminate the appointment.

Item 639 – Translation of references in documents

This item provides that transitional regulations under the *Offshore Petroleum and Greenhouse Gas Storage (National Regulator) Amendment Act 2011* (National Regulator Amendment Act) may provide that, after the commencement of Part 1 of Schedule 2 to the Act, specified references to the DA in specified documents will have effect as if the reference to the DA were a reference to NOPTA, NOPSEMA or the responsible Commonwealth Minister (as applicable). The regulations may also provide that specified references to the responsible Commonwealth Minister in specified documents will have effect as if the reference to the responsible Commonwealth Minister were a reference to NOPTA.

Part 1 of Schedule 2 to the Act, among other things, establishes NOPTA and NOPSEMA, abolishes the DA, and transfers the functions and powers previously

exercisable by the DA to NOPTA, NOPSEMA and/or the responsible Commonwealth Minister, and some functions and powers previously exercisable by the responsible Commonwealth Minister to NOPTA.

This item will ensure that documents specified in the regulations which include references to the DA can effectively and validly continue in force once the DA has been abolished. For the purposes of this item, “document” includes a petroleum or greenhouse gas title.

See item 641 in relation to the power to make transitional regulations under the National Regulator Amendment Act.

Item 640 – Transitional – proceedings in courts and tribunals

This item provides that transitional regulations under the National Regulator Amendment Act may provide that, where the DA is a party to proceedings that are pending in a court or tribunal prior to the commencement of Part 1 of Schedule 2 to the Act, NOPTA, NOPSEMA or the responsible Commonwealth Minister is substituted as a party to the proceedings (as applicable). The regulations may also provide that, where the responsible Commonwealth Minister is a party to proceedings prior to the commencement of Part 1 of Schedule 2, NOPTA is substituted as a party to the proceedings.

Part 1 of Schedule 2 to the Act, among other things, establishes NOPTA and NOPSEMA, abolishes the DA, and transfers the functions and powers previously exercisable by the DA to NOPTA, NOPSEMA and/or the responsible Commonwealth Minister, and some functions and powers previously exercisable by the responsible Commonwealth Minister to NOPTA.

Where a matter that is the subject of the proceedings specified in the regulations relates to a power, function or obligation that has been transferred from the DA to NOPTA, NOPTA will be substituted as the party to the proceedings. Similarly, where a matter that is the subject of the proceedings relates to a power, function or obligation that has been transferred from the DA to NOPSEMA or the responsible Commonwealth Minister, NOPSEMA or the responsible Commonwealth Minister respectively will be substituted as a party to the proceedings.

Where a matter that is the subject of the proceedings relates to a power, function or obligation that has been transferred from the responsible Commonwealth Minister to NOPTA, NOPTA will be substituted as a party to the proceedings.

Where it considers it is in the interests of justice to do so, the court or tribunal before which the proceedings are being heard will have the ability to order that the transitional regulations do not apply to those proceedings, and that a different person is substituted as a party to the proceedings

This item will ensure that on-going legal proceedings to which the DA is a party will not be affected solely by the abolition of the DA and the transfer of the DA’s power, functions and obligations to other entities.

See item 641 in relation to the power to make transitional regulations under the National Regulator Amendment Act.

Item 641 – Transitional regulations

This item gives the Governor-General the power to make regulations prescribing the matters which are permitted by items 637 to 640 to be made.

Part 4 – Transitional provisions commencing on Proclamation

Item 642 – Interpretation

For the purposes of Part 4 of Schedule 2 to the National Regulator Amendment Bill, this item categorises provisions of the OPGGS Act, as they were in force before the commencement of this item on Proclamation and which are amended by Schedule 2 to the Bill, as follows:

- A provision that is amended so as to transfer a function or power of the DA for an offshore area to NOPTA is a **Category A** provision.
- A provision that is amended so as to transfer a function or power of the DA for an offshore area to NOPSEMA is a **Category B** provision.
- A provision that is amended so as to transfer a function or power of the DA for an offshore area to the responsible Commonwealth Minister is a **Category C** provision.
- A provision that is amended so as to transfer a function or power of the responsible Commonwealth Minister to NOPTA is a **Category D** provision.

Item 643 – Transitional – instruments made or given by the Designated Authority to be attributed to the Titles Administrator etc.

This item continues in effect instruments that were made or given by the DA for an offshore area under a Category A provision (see item 642), where the instrument was in force immediately before the commencement of this item. To ensure their continued effectiveness, the instruments will be taken to have been made or given by NOPTA under the Category A provision as it has been amended by Schedule 2 to the National Regulator Amendment Bill.

Item 644 – Transitional – acts of Designated Authority to be attributed to the Titles Administrator etc.

This item continues in effect acts or things that were done by the DA for an offshore area, prior to the commencement of this item, under or for the purposes of a Category A provision (see item 642). To ensure their continued effectiveness, the acts or things will be taken to have been done by NOPTA under the Category A provision as it has been amended by Schedule 2 to the National Regulator Amendment Bill.

This item does not apply to the making or giving of an instrument by the DA under a Category A provision. See item 643.

Item 645 – Transitional – instruments made or given by the Designated Authority to be attributed to NOPSEMA etc.

This item continues in effect instruments that were made or given by the DA for an offshore area under a Category B provision (see item 642), where the instrument was in force immediately before the commencement of this item. To ensure their continued effectiveness, the instruments will be taken to have been made or given by NOPSEMA under the Category B provision as it has been amended by Schedule 2 to the National Regulator Amendment Bill.

Item 646 – Transitional – acts of Designated Authority to be attributed to NOPSEMA etc.

This item continues in effect acts or things that were done by the DA for an offshore area, prior to the commencement of this item, under or for the purposes of a Category B provision (see item 642). To ensure their continued effectiveness, the acts or things will be taken to have been done by NOPSEMA under the Category B provision as it has been amended by Schedule 2 to the National Regulator Amendment Bill.

This item does not apply to the making or giving of an instrument by the DA under a Category B provision. See item 645.

Item 647 – Transitional – instruments made or given by the Designated Authority to be attributed to the responsible Commonwealth Minister etc.

This item continues in effect instruments that were made or given by the DA for an offshore area under a Category C provision (see item 642), where the instrument was in force immediately before the commencement of this item. To ensure their continued effectiveness, the instruments will be taken to have been made or given by the responsible Commonwealth Minister under the Category C provision as it has been amended by Schedule 2 to the National Regulator Amendment Bill.

Item 648 – Transitional – acts of Designated Authority to be attributed to the responsible Commonwealth Minister etc.

This item continues in effect acts or things that were done by the DA for an offshore area, prior to the commencement of this item, under or for the purposes of a Category C provision (see item 642). To ensure their continued effectiveness, the acts or things will be taken to have been done by the responsible Commonwealth Minister under the Category C provision as it has been amended by Schedule 2 to the National Regulator Amendment Bill.

This item does not apply to the making or giving of an instrument by the DA under a Category C provision. See item 647.

Item 649 – Transitional – instruments made or given by the responsible Commonwealth Minister to be attributed to the Titles Administrator etc.

This item continues in effect instruments that were made or given by the responsible Commonwealth Minister under a Category D provision (see item 642), where the instrument was in force immediately before the commencement of this item. To ensure their continued effectiveness, the instruments will be taken to have been made or given by NOPTA under the Category D provision as it has been amended by Schedule 2 to the National Regulator Amendment Bill.

Item 650 – Transitional – acts of the responsible Commonwealth Minister to be attributed to the Titles Administrator etc.

This item continues in effect acts or things that were done by the responsible Commonwealth Minister, prior to the commencement of this item, under or for the purposes of a Category D provision (see item 642). To ensure their continued effectiveness, the acts or things will be taken to have been done by NOPTA under the Category D provision as it has been amended by Schedule 2 to the National Regulator Amendment Bill.

This item does not apply to the making or giving of an instrument by the responsible Commonwealth Minister under a Category D provision. See item 649.

Item 651 – Transitional – continuation of Registers

This item continues in existence the Registers of petroleum titles and petroleum special prospecting authorities that were kept by each DA for an offshore area, and the Register of greenhouse gas titles and greenhouse gas search authorities that was kept by the responsible Commonwealth Minister, after the commencement of this item (i.e. on Proclamation).

In effect, the Registers of petroleum titles and petroleum special prospecting authorities for each offshore area that are to be kept by NOPTA will be a continuation of the existing Registers for each offshore area. See item 171.

Similarly, the Register of greenhouse gas titles and greenhouse gas search authorities that are to be kept by NOPTA will be a continuation of the existing Register of greenhouse gas titles and greenhouse gas search authorities.

Item 652 – Transitional – transfer of Registers by Designated Authority

This item requires the Registers of petroleum titles and petroleum special prospecting authorities for each offshore area that were kept by the DA prior to the commencement of this item to be transferred to NOPTA after the commencement of this item (i.e. following the abolition of the DA on Proclamation).

Transferring the Registers will ensure that NOPTA can continue the existing Registers once the function of keeping the Registers is transferred to NOPTA – see item 649.

Item 653 – Transitional – transfer of Register by responsible Commonwealth Minister

This item requires the Register of greenhouse gas titles and greenhouse gas search authorities that was kept by the responsible Commonwealth Minister prior to the commencement of this item to be transferred to NOPTA after the commencement of this item (i.e. following the abolition of the DA on Proclamation).

Transferring the Register will ensure that NOPTA can continue the existing Register once the function of keeping the Register is transferred to NOPTA – see item 649.

Item 654 – Transitional – transfer of petroleum records to the Titles Administrator

This item requires any records or documents that are “applicable documents” (within the meaning of Part 7.3 of, or Schedule 5 to, the OPGGS Act) and that were in the possession of the DA before the commencement of this item to be transferred to NOPTA after the commencement of this item (i.e. following the abolition of the DA on Proclamation). The same requirement also applies to cores, cuttings or samples that are petroleum mining samples (within the meaning of Part 7.3 of the OPGGS Act) and within the possession of the DA.

Item 655 – Transitional – transfer of greenhouse gas records to the Titles Administrator

This item requires any records or documents that are “applicable documents” (within the meaning of Part 8.3 of the OPGGS Act) and that were in the possession of the responsible Commonwealth Minister before the commencement of this item to be transferred to NOPTA after the commencement of this item (i.e. following the transfer of responsibility for greenhouse gas records to NOPTA on Proclamation). The same requirement also applies to cores, cuttings or samples that are eligible samples (within the meaning of Part 8.3 of the OPGGS Act) and within the possession of the responsible Commonwealth Minister.

Item 656 – Transitional regulations

This item gives the Governor-General the power to make regulations relating to transitional matters arising out of the amendments to the OPGGS Act made by Schedule 2 to the National Regulator Amendment Act.

Schedule 3 – Amendments relating to annual fees

Part 1 – Repeal of the Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006

Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006

This item repeals the whole of the *Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006* (Annual Fees Act).

The annual fees imposed on holders of petroleum titles by the Annual Fees Act were required to be passed by the Commonwealth on to the DAs to fund their administration of the OPGGS Act. Following the abolition of the DAs, NOPTA and NOPSEMA will operate on a cost-recovery basis funded by levies raised by the offshore petroleum and greenhouse gas industries imposed by the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*. The annual fees imposed by the Annual Fees Act will therefore no longer be imposed on titleholders.

Part 2 – Consequential amendments

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Item 2 – Section 7 (definition of Annual Fees Act)

This item repeals the definition of “Annual Fees Act”. The Annual Fees Act will be abolished by this Schedule. See item 1 of Part 1.

Item 3 – Paragraph 270(3)(a)

This item removes the word “Acts”.

Items 4 to 7 – Subparagraph 270(3)(a)(iii); Subparagraph 274(d)(iii); Subparagraph 277(3)(a)(iii); Subparagraph 277(4)(a)(iii)

These items remove references to “Annual Fees Act” and replace them with references to “section 10E of the Regulatory Levies Act”.

Item 8 – Paragraph 442(3)(a)

This item removes the word “Acts”.

Items 9 to 14 – Subparagraph 442(3)(a)(ii); Subparagraph 446(d)(ii); Subparagraph 449(3)(a)(ii); Paragraph 449(4)(a)(ii); Paragraph 589(2)(e); Paragraph 597(2)(d)

These items remove references to “Annual Fees Act” and replace them with references to “section 10E of the Regulatory Levies Act”.

Item 15 – Division 1 of Part 6.7

This item repeals Division 1 of Part 6.7, which relates to fees payable under the Annual Fees Act.

Part 3 – Application and transitional provisions

Item 16 – Application of repeal

This item provides that the repeal of the Annual Fees Act applies to any year of the term of a petroleum or greenhouse gas title that begins at or after the commencement of this item (i.e. on Proclamation).

For example, if the Schedule commenced by Proclamation on 1 September 2011, and a year of the term of a petroleum or greenhouse gas title commenced on or after 1 September 2011, an annual fee would not be imposed in relation to that year of the term of the title under the (repealed) Annual Fees Act. However, if a year of the term of a petroleum or greenhouse gas title commenced on or before 31 August 2011, an annual fee would be imposed in relation to that year of the term of the title under the Annual Fees Act, as that Act would not yet have been repealed.

Item 17 – Transitional

This item provides that the existing provisions of the OPGGS Act will continue to apply to any fees that became payable under the Annual Fees Act prior to the repeal of that Act, and late payment penalties in relation to such fees, as if the amendments made to those existing provisions by Schedule 3 to this Bill had not been made.

Schedule 4 – Amendments relating to registration fees

Part 1 – Repeal of the *Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006*

Item 1

This item repeals the whole of the *Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006* (Registration Fees Act).

Part 2 – Consequential amendments

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Item 2 – Section 7 (definition of *Registration Fees Act*)

This item repeals the definition given the Registration Fees Act will be repealed.

Item 3 – At the end of section 473

This item adds a note to clarify that the new section 516A requires the application for a proposed transfer of petroleum title to be accompanied by an application fee. See Item 4A.

Item 4 – Subsection 479(3)

Omit reference to the Registration Fees Act given it will be repealed.

Item 5 – At the end of section 488

This item adds a note to clarify that the new section 516A requires the application for a proposed approval of a dealing in relation to a petroleum title to be accompanied by an application fee. See Item 9.

Item 6 – Subsection 494(3)

Omit reference to the Registration Fees Act given it will be repealed.

Item 7 – At the end of section 498

This item adds a note to clarify that the new section 516A requires the application for a proposed approval of a future dealing in relation to a petroleum title to be accompanied by an application fee. See Item 9.

Item 8 – Section 512

This item repeals the whole section given that the Registration Fees Act will be repealed and therefore there is no registration fee payable on a transfer or dealing in relation to petroleum titles.

Item 9 – After section 516

This item inserts an application fee provision which will apply to applications in relation to approval of a transfer of a petroleum title or approval of a dealing.

Item 10 – Section 517

This item repeals the whole section given that the Registration Fees Act will be repealed and therefore there is no registration fee payable on a transfer or dealing in relation to a petroleum title.

Item 11 – At the end of section 525

This item adds a note to clarify that the new section 565A requires the application for a proposed transfer of greenhouse gas title to be accompanied by an application fee. See Item 17.

Item 12 – Subsection 530(3)

Omit reference to the Registration Fees Act given it will be repealed.

Item 13 – At the end of section 539

This item adds a note to clarify that the new section 565A requires the application for a proposed approval of a dealing in relation to a greenhouse gas title(s) to be accompanied by an application fee. See Item 17.

Item 14 – Subsection 544(3)

Omit reference to the Registration Fees Act given it will be repealed.

Item 15 – At the end of section 548

This item adds a note to clarify that the new section 565A requires the application for a proposed approval of a future dealing in relation to a greenhouse gas title to be accompanied by an application fee. See Item 17.

Item 16 – Section 561

This item repeals the whole section given that the Registration Fees Act will be repealed and therefore there is no registration fee payable on a transfer or dealing in relation to greenhouse gas titles.

Item 17 – After section 565

This item inserts an application fee provision which will apply to applications in relation to approval of a transfer of a greenhouse gas title or approval of a dealing.

Item 18

This item repeals the whole section given that the Registration Fees Act will be repealed and therefore there is no registration fee payable on a transfer or dealing in relation to a greenhouse gas title.

Item 19 – Division 2 of Part 6.7

This item repeals the whole Division given that the Registration Fees Act will be repealed and therefore there are no registration fees payable.

Item 20 – After paragraph 636(1)(e)

This item adds to the listing of fees payable under the OPGGS Act to include the newly created application fees for transfers and dealings as contained in subsection 516A(1).

Item 21 – Before paragraph 636(1)(f)

This item adds to the listing of fees payable under the OPGGS Act to include the newly created application fees for transfers and dealings as contained in subsection 565A(1).

Part 3 – Application and transitional provisions

Item 22 – Application of repeal

This item provides that the repeal of the Registration Fees Act applies to relevant OPGGS Act provisions, only to the extent to which the Registration Fees Act relates to the entry of certain information on the Register in response to an application made after the commencement of this item.

Item 23 – Application of provisions relating to application fees

This item provides that fees contained in sections 516A and 565A of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* as amended by this Schedule applies to eligible applications made after the commencement of this item.

Item 24 - Transitional

This item provides that fees paid under the Registration Fees Act prior to its repeal, are subject to the same treatment and requirements as if the Registration Fees Act was still in force.

Schedule 5 – Technical amendments

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Item 1 – Paragraph 114(2)(a)

This item corrects a technical oversight that occurred in the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Act 2009* (2009 Amendment Act).

Section 130 of the OPGGS Act was amended by the 2009 Amendment Act to provide that if the JA believes that a petroleum exploration permittee is entitled to nominate a block or blocks as a location, and the permittee has not done so, the JA may, by written notice given to the permittee, require the permittee to nominate the block or blocks within a certain period of time. Prior to these amendments, the functions and powers in section 130 were exercisable by the DA.

Paragraph 114(2)(a), which cross-references section 130, should also have been amended to refer to the JA. However, the reference to the DA in this paragraph was left in place at the time this power was transferred to the JA by the 2009 Amendment Act. This item corrects this oversight to refer correctly to the JA in this paragraph.

This item will commence from the time the amendment would have originally commenced if it had been included in the 2009 Amendment Act (i.e. 9 October 2009). Retrospective commencement will reflect that, since 9 October 2009, the JA has been the entity that has had the ability to require a permittee to nominate a block or blocks under section 130, and therefore reflecting the manner in which paragraph 114(2)(a) has been applied in practice. It will not adversely affect parties covered by this section.